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International Court of Justice

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Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, The United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 18 January 1946, 1005-1245, Lord Justice Lawrence presiding.

M. EDGAR FAURE: Mr. President, your Honors. At yesterday's session I explained and showed to the Tribunal the principle of the provisions made by the Germans to ensure the seizure of raw materials and the manner of financing in the occupied countries. These provisions will be demonstrated by numerous documents which will be presented to the Tribunal in the course of the presentation of the case on economic spoliation and forced labor.

I shall not quote these documents at this moment since, as I pointed out yesterday, the purpose of my discussion is limited to the initial concepts of the Germans in these matters. I shall only cite one document which reveals the true intentions of the Germans in the very first period. This document bears the number 3-Bis, and I offer it in evidence to the Tribunal. It particularly relates to Norway. It consists of a photostatic copy, certified and authenticated. It is a transcript of a conference in Oslo, the 21st of November, 1940.

THE PRESIDENT: Where shall we find it?

M. FAURE: I have just filed this document with the Tribunal and you have it in the book which was just given you, the text of the extract which I am going to quote in French:

"Oslo, 21 November 1940."

THE PRESIDENT: Are the documents in our books marked in any way?

M. FAURE: As there are only five documents in this book, we have put no numbers upon them. This is the fourth document in the book.

THE PRESIDENT: Conference under the presidency of the Reichs Kommissar?

M. FAURE: Yes, that is the one.

THE PRESIDENT: Something of November 1940?

M. FAURE: That is the one, yes, sir,

THE PRESIDENT: When you file a document as an exhibit, it will be

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given a number, will it not?

M. FAURE: Yes.

THE PRESIDENT: What is the number of this one?

M. FAURE: No. 3-Bis.

THE PRESIDENT: Number 3-Bis?

M. FAURE: Bis, b-i-s.

THE PRESIDENT: Yes. What is the date? The date on mine is undecipherable.

M. FAURE: November 21, 1940.

This document is the transcript of a meeting held in Oslo under the presiding officer of the Kommissar of the Reich. I shall point out to the Tribunal that we file this document as particularly significant because Norway is a country which was occupied at a very early date by the Germans. The date of November 21, 1940, which you see, is naturally during the very earliest period of the German occupation, and in the text of the conference there is allusion to the fact which took place in that month. You will find there exactly the psychology of the occupation troops or occupation authorities as it existed in the period of April 1940 and November 1940.

That is to say, at the same time or even before that time, when the Germans were invading other countries, they made a reassuring proclamation which I read to the Tribunal yesterday.

There were 40 persons present at the conference, at which the State Secretary, Dr. Landfried, who represented the Ministry of Reich Economy, was present. Here is how the Kommissar of the Reich expresses himself:

To-day's conference is the result of a conference which was held in Berlin or the continuation of a conference which was held in Berlin. On this occasion I would like to first stress and establish definitely that the collaboration between the Wehrmacht and the Reichs Kommissar is exemplary. I must protest against the concept or notion according to which the Wehrmacht carried out its financial task in a confused and irresponsible manner. We must also point out the particular circumstances which were present in Norway and which are still partially present. Certain tasks were fixed here which were to be executed without delay.

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"At the time of the Berlin conference, the following points were fixed, which we can take as a point of departure for the conference of to-day. There is no doubt that the country of Norway was utilized for the execution of the tasks of the Wehrmacht during the last seven months, in such a way that a new drain or stripping of the country without certain compensation is no longer possible. If we wish to accomplish the future tasks of the Wehrmacht, I consider it from the beginning as being my evident duty in my capacity as Reichs Kommissar to see, first of all, my task in this purpose, to mobilize all the economic and material forces of the country for the interest of the Wehrmacht, and not to appeal to the resources of the Reich as long as I am in a position to organize the same resources in the country."

I stop at this point the quotation of the words of the Reichs Kommissar, and now I shall cite the terms of the reply of Dr. Landfried, which you will find a little lower down in the document:

"I am very grateful to be able to verify that you have succeeded here in Norway in mobilizing the economic forces of Norway for German needs, and that in a way which was not possible to attain in all the other occupied countries. I must thank you especially in the name of the Minister of Economy who succeeded in stimulating the Norwegians to accomplish every possible carrying out of their task."

I think the Tribunal will have observed the series of expressions which are quite characteristic, which are used in this document. The Kommissar of the Reich, or Reich Kommissar, says, "From the very beginning, my duty to mobilize all the economic and material forces of the country for the interest of the Wehrmacht," and Dr. Landfried says, "We succeeded in mobilizing the economic forces of Norway in a way which it was not possible to attain in all the other occupied territories."

Thus, Dr. Landfried doesn't say that the Germans had, in Norway, a particular notion or concept of occupation and that in other countries they were going to go about it in another way. He said it was not possible to do as well in other countries. The only limitation he recognizes is in the opportunity, but in no wise a limitation of law. The idea of a legal

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limitation never comes to his mind, any more than it comes to the mind of any of the 40 persons present. Here we are not talking about an opinion or initiative of a regional administrative authority, but rather of the official doctrine of the Reichs Cabinet of the High Command, since 40 high officials were present at this conference, and especially the representatives of the Ministry of Economy.

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I should like to now stress that this German doctrine and these German means on the mobilization of the resources of the occupied countries necessarily extend to the labor of the inhabitants. I said yesterday that the Germans ensured, from the very beginning, the two keys of production. By that very fact, they have had within their power the capital, which was labor. It depended on their decision whether labor worked or should not work, whether there should be or should not be unemployment. This explains in a general way the action the Germans took only after a certain time, the brutal measures such as displacement and the mobilization of workers.

In the first stage, I am glad to say, as long as there existed in the occupied countries stocks and raw materials, the Germans had every interest in utilizing labor in the region where they were, at least for a great part. This labor permitted them to produce for their benefit, with the wealth of the country, finished products which they seized. Besides the ethical advantage of safeguarding appearances, they avoided the initial transportation of raw materials. The considerations or difficulties of transportation were always very important in the German war economy.

But, when after a time -- which was more or less long -- the occupied countries were impoverished in their raw materials and truly ruined, at that moment the Germans no longer had any interest in permitting labor to work there. They would have had to furnish theraw materials themselves, and consequently that would involve double transportation, that of raw material in one direction and that of the finished products in the other direction. At that moment it became more advantageous for them to export workmen.

This consideration coincided, moreover, with the needs resulting from the economic situation of Germany at that time, and with political considerations. On the relation of this country, that is to say, the use of labor, I shall read to the Tribunal a few sentences of a document which I offer under the number 4. It is a document which is a continuation of the one which I have just read. The note which you will find in the document book reproduces the sentence which concerns articles which appeared in the newspaper Pariser Zeitung on July 7, 1942. I offer at the same time to the Tribunal a photostatic copy, which has been authenticated, of the page of the newspaper, from

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the collection from the Bibliotheque Nationale. This article is signed by Dr. Michel, who was the Chief of the Economic Administration in France. Its title is "Years of Directed Economy in France". It concerns an article written with a propaganda purpose, since it appeared in a German newspaper which was published in Paris, and naturally I wish to point out to the Tribunal that we shall accept in no wise the whole of the ideas which are presented in this article, but we should like to stress several sentences of Dr. Michel as revealing the same sort of procedure about which I spoke a short time ago, which consisted of utilizing labor first on the spot, as long as there was raw material, and then exporting this labor to Germany.

I quote: --

THE PRESIDENT: Have you given the Tribunal a number?

M. FAURE: No. 4. I quote:

"The third phase is characterized by the transfer of orders from the Reich to France in order to utilize the productive force of French industry."

THE PRESIDENT: You were reading from "Afin D'Utiliser", weren't you?

M. FAURE: Yes, "Afin D'Utiliser", in the other book, in the text.

THE PRESIDENT: Very well; I understand. You read another sentence, other than that which is set out in this book.

M. FAURE: Yes, it is a mistake in my brief. I begin:

"In order to utilize the productive force of such industry, the Reich began by transferring to France its orders for industrial articles which were of use to the war effort. One figure alone is adequate to show success of the transfer of German orders. The value of the transactions made up to this day are expressed in a figure surpassing hundreds of billions of francs. A new blood circulates, flows in the veins of such economy, which works to the very limit of its capacities."

Some sentences which were in the original were omitted here, and I would like to read the following sentence:

"As the covering of raw materials tended to grow slim as the war was prolonged, they began to hire French labor which was available."

Dr. Michel uses here very elegant formulas or ways of expressing himself, which cover the real intent, that is to say, the beginning of the transfer of

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workmen at the very moment when raw material, which the Germans had appropriated from the beginning of occupation, had begun to be exhausted.

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The conclusion which I would like to give to this phase of my exposition is the following: that the Germans have always considered labor, human labor, as a material thing in their service. This consideration existed even before the initial imposition of forced, or compulsory, labor, of which we will speak to you presently. For Germans the work of others has always been compulsory and for their profit. On the other hand, I should like to mention now that it has been estimated that even after the end of the war - This is the last point that I would like to emphasize, but it shows the amplitude and the seriousness of the German conception and of the German projects. I shall quote in relation to this a document, which will bear the No. 5 in our document book. Here is the document, which I file with the Tribunal, a work edited in French in Berlin in 1943 by Doctor Dadieu entitled "Work for Europe."

It is edited by the Central Publishing House of the National Socialist Party. It begins with an introduction, or preface, by the defendant Sauckel, whose signature is reproduced through printing. I shall cite to the Tribunal a paragraph from this work, which is the last page of my brief. This is Document No. 5 and this sentence is found on page 23. I quote:

"A great percentage of foreign workers will remain even after victory on our territory to finish afterwards, after having been re-adapted to construction work, what the war had prevented them from finishing, and to carry out those projects which up to now had remained as projects."

So apart from any propaganda work, written consequently with great prudence and with the intention to seduce, we find nevertheless this central admission by the Germans, that they intended to keep even after the war the laborers of other countries, to insure the greatness of Germany, without any limitation. Hence this concerns a policy of perpetual exploitation.

If it please the Tribunal, my introduction having been terminated, Mr. Herzog will present the brief relating to forced labor in France.

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MR. HERZOG: Mr. President and your Honors:

The National-Socialist doctrine, by the high place which it gives to the idea of the State, by the contempt in which it holds individuals and personal rights, contains a conception of work, which agrees with the principles of its general philosophy. Work is not, for it, one of the formers of the manifestation of individual personalities, it is a duty imposed by the community on its members.

"The relationship of labour", according to National-Socialist ideas; a German writer has said, "is not a simple judicial relationship between the worker and his employer, it is a living phenomenon in which the worker becomes a cog in the National-Socialist machine for collective production". The conception of compulsory labour is thus, for National-Socialism, necessarily complementary to the conception of work itself.

Compulsory Labour Service was first of all imposed on the German people. German Labour Service was instituted by a law of 26 June 1935 which bears Hitler's signature and that of the defendant FRICK, Minister of the Interior. This law was published in the Reich Official Gazette, Part I, page 769. I submit it to the Tribunal as Document No. 6.

From 1939 the mobilization of workers was added to the compulsory labour service. Decrees were promulgated to that effect by the Defendant GOERING in his capacity as delegate of the Four Year Plan. I do not stress this point which arises from the conspiracy entered into by the accused to commit their crime against peace, and of which my American colleagues have already informed the Tribunal. I merely point out that the mobilization of workers was applicable to foreigners resident in German territory, because I find in this fact the proof that the principle of compulsory recruitment of foreign workers existed prior to the war.

Far from being the spontaneous result of the needs of German war industry, the compulsory recruitment of foreign workers is the putting into practice of a concerted policy. I lay before the Tribunal a

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document which proves this. It is document 382, which I offer as Exhibit No. 7. This is a memorandum of the High Command of the German Armies of 1st October 1938; the memorandum, drawn up in anticipation of the invasion of Czecho-Slovakia, contains a classification of violations punishable under International Law; the explanation which the High Command of the Armed Forces thinks it possible to give, appears in connection with each violation. The document appears in the form of a list in four columns; in the first is a statement of the violations of International Law; the second gives a concrete example; the third contains the point of view of International Law under two headings, on the one hand the provisions of International Law, and, on the other hand, the conclusions which can be drawn from them. The fourth column is reserved for the explanation of the Propaganda Ministry. I submit this document to the Tribunal and I read the passage which deals with the forced labour of civilian and prisoners of war which is found on page 6 of the German original, page 7 of the French translation, the document which is referred to in my document book as No.7.

I read at the bottom of page 7, of the French translation:

"The use of prisoners of war and civilians in war works, constructions of roads, country construction, and the sending of munitions: Soldiers and civilians are commanded to construct roads and to load munitions."

The third column, article 31, an agreement signed 27 July 1939 concerning the treatment of war prisoners, and the works which are directly in relation to war measures, being forced to work, contrary to international law: the war prisoners and civilians who are used on highway construction and in the loading of munitions.

In the last column: "The use of these measures may be based on war needs or by declaring that the enemy has acted in the same way first.

The compulsory recruitment of foreign workers is thus in accordance with National-Socialist doctrine, one of the elements of the policy of German domination. Hitler himself recognized this on several occasions. I quote in this connection his speech of 9 November 1941 which was

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printed in the Voelkischer Beobachter of 10 November 1941, No.314, page 4, which I submit to the Tribunal under No. 8. I read the extract of this discourse, columns 1 and 2 and the first paragraph below, in the original.

THE PRESIDENT: Exhibit No. 8, is it not?

MR. HERZOG: Yes, your Honor.

"The territory which now works for us contains more than 250,000,000 men, but the territory which works indirectly for us includes now more than 350,000,000. In the measure in which it concerns German territory, the domain which we have taken under our administration, it is not doubtful that we shall succeed in harnassing the very last man to this work."

The recruitment of foreign workers thus proceeds in a systematic manner. It constitutes the putting into practice of the political principles as applied to all the territories occupied by Germany. These principles, the concrete development of which in other departments of German criminal activity will be pointed out to you by my colleagues, are materially of two kinds; employment of all active forces of the occupied territories, domination over and extermination of all their non-productive forces. These are the two justificatory reasons which the defendants have given for the establishment of the recruitment of foreign workers. There are many documents to this effect; I confine myself to the most explicit.

The justification for the recruitment of foreign workers on account of the necessity for associating the enslaved peoples with the German war effort is found, in the first place, in the exposition of the motives of the decree of 21 March 1942.

DR. STAHMER (Counsel for Goering): Mr. President, I should like to point out that the translation into German is faulty. Whole sentences are omitted. This is apparently the result of the fact that the Prosecutor is speaking too rapidly.

THE PRESIDENT: Will you go a little more slowly?

MR. HERZOG: Yes.

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The justification for the recruitment of foreign workers on account of the necessity for associating the enslaved peoples with the German war effort is found, in the first place, in the exposition of the motives of the decree of 21 March 1942, appointing the defendant Sauckel as plenipotentiary for the employment of labour. The Decree was published in the Reich Official Gazette 1942, Part 1, page 179. I submit it and will read its complete text to the Tribunal, which is Document No. 9.

"The decree of the Fuehrer concerning the creation of a plenipotentiary for the employment of labor, dated March 21, 1941. To assure to the whole of the war economy, and in particular the armament industry, necessary labor, it is important to establish a direction which unified, answering

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the needs of the war economy for the use of available labor, including foreigners, hired and war prisoners, as well as the mobilization of all labor, skilled and unemployed, in the Great German Reich, including the Protectorate as well as the general government of the occupied regions. This mission will be accomplished by Reichsleiter and Gauleiter Fritz Sauckel in the capacity of general plenipotentiary for the employment of labor in the framework of the Four-Year-Plan. In this capacity he is directly responsible to the Four-Year Plan."

I would like to point out that the defendant Sauckel has developed the same theme. At the Congress of Gauleiter and Reichsleiter, held February 5 and 6 1943 at Posen, he expressed himself in plain terms: he justified compulsory recruitment by National-Socialist philosophy and by the necessity of associating all the European peoples in the struggle carried on by Germany. His speech constitutes document 1739 PS. I submit it under No. 6 and 10 and I request the Court to take judicial notice of it and to accept the following passages in evidence against the defendant Sauckel. The following passages--first page 5 of the German text, fourth paragraph--are found in the first page of the French translation:

"The remarkable violence of the war has forced me to immobilize in the name of the Fuehrer the numerous foreigners for labor in the domain of the German war economy, and to force them to give considerable production. The purpose of this utilization is to insure in the labor domain the material means necessary to war in the struggle for life and liberty, in the first place, of our people, and also for the preservation of our Western culture for those peoples who are quite different from the parasitical Jews and bureaucrats, who lead a life which will consist of work and effort and who possess honest will and force. Such is the enormous difference between, on the one hand, the work which was demanded at one period by the power and Jewish authority in the Treaty of Versailles and the Young Plans, which took the form of slavery and tributary efforts, and, on the other hand, the utilization of labor which, in my capacity as a National Socialist I have the honor to prefer and to carry out, and which represents a participation in the struggle by Germany for the liberty of Germany and for the liberty of friendly nations."

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The compulsory recruitment of foreign workers did not have as its only object the maintenance of the level of German industrial production. There was also the conscious desire to weaken the human potential of the occupied countries.

The idea of extermination by work was familiar to the theorists of National-Socialism and to the leaders of Germany; it constituted one of the bases of the policy of domination of the invaded territories. I lay before the Court the proof that the National-Socialist conspirators envisaged the destruction by work of whole ethnical groups. A discussion which took place on 14 September 1942 between Goebbels and Thierack is significant. It constitutes Document 682 P.S., which I file with the Tribunal under the No. 11, from which I take the following passage:

"Concerning the extermination of the associates, Doctor Goebbels is of the opinion the following groups must be exterminated: Jews and nomads, without any discrimination; Poles who have three or four years of legal penalty to carry out; Czechoslovakians and Germans who have been condemned to death or forced labor for life or have been placed in protective custody for life."

The idea of extermination by work was not applied to ethnical groups alone, the disappearance of which was desired by the defendants; it also led to the employment of foreign manual labour in the German war industry up to the extreme limit of the individual strength. I will revert to this aspect of the policy of forced labour when I lay before the Tribunal the treatment of foreign workers in Germany, the cruelty of which they were the object. The reprisals aimed at them sprang from this main conception of National Socialism, that the human strength of the occupied countries must be employed without other limitation than that of their extermination, which is the final motive.

The defendants have not only admitted the principle of compulsory recruitment of foreign workers; they have followed a consistent policy of putting their principle into practice, applying in it the same concrete manner in the various occupied territories. To do this they resorted to identical methods of recruitment; they set up everywhere the same recruitment administration and promulgated the same orders. In the first place, it was a question of inciting the foreign workers to work in their own countries for the army

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of occupation and the services connected with it. The German military and civil authorities organized workyards in order to carry out on the spot work useful to their war policy. The workyards or shops of the Todt organization, which were under the direction of the defendant Speer, after the death of their founder, and those of the Wehrmacht, Luftwaffe, Kriegsmarine, and the N.S.K.K. organization, employed numerous foreign workers in all areas of Western Europe.

But the essential undertaking of the German labour services was the deportation of foreign workers to the munition factories of the Reich. The most varied means have been used to this end. They have been built up into a recruiting policy which can be analysed as follows: In the beginning, this policy took on the cloak of legality. The use of labour took the form of requisition as under the terms of Article 52 of the Appendix to the fourth Hague Convention; it was also effected by means of voluntary recruitment of workers, to whom the German recruiting offices offered labour contracts.

I shall provide the Tribunal with proof that the labour requisitions effected by the National Socialist authorities were a deliberate misinterpretation of the letter and spirit of the international convention by virtue of which they were carried out. I shall show that the voluntary character of the recruitment of certain foreign workers was entirely

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fictitious; in reality their work contracts were made under the pressure which the occupation authorites brought to bear on their will. The Defendants lost no time in flinging aside their mask of legality. They compelled the prisoners of war to do work forbidden by international conventions. I shall show how the work of prisoners of war was incorporated in the general plan for the employment of labor from the occupied areas.

After all, it is through force that the Defendants brought to fruition their recruitment plans. They did not hesitate to resort to violent methods. Thus they established the compulsory labor service in the areas which they occupied. Sometimes they directly promulgated orders bearing the signature of military commanders or Reich Commissars. This is the case with Belgium and Holland. Sometimes they forced the authorities in fact, authorities which they had set up in the occupied areas, to take legislative measures. This is particularly the case with France and Norway. Sometimes they simply took direct action, that is, they transferred foreign workers to factories in Germany without providing a written order for this. This happened in Denmark. Finally in certain occupied areas where they began to carry out Germanization the Defendants made the inhabitants of these territories a part of the labor service of the Reich. It happened thus in the French provinces of Haut-Rhin, Bas-Rhin, Moselle, and in Luxembourg.

The policy of compulsory labor was asserted and systematized from the day when the Defendant Sauckel was appointed General Plenipotentiary for the Employment of Labor.

Member of the National Socialist Party since its formation, Member of the Diet of Thuringia, Obergruppenfuehrer of the criminal organizations SS and SA, the Defendant Sauckel was Gauleiter and Reichsstatthalter of Thuringia. On March 21, 1942, he was appointed General Plenipotentiary for the Employment of

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Labor by a decree of the Fuehrer. This decree is counter-signed by Lammers, in his capacity as Reichsminister and Chief of the Chancery, and by the Defendant Keitel. The responsibility of the latter is proved by his counter-signature. The Defendant Keitel has associated himself, by Sauckel's choice, with the policy of compulsory labor, of which he has approved the principle and the methods. I have already read this decree to the Tribunal. I would remind you that it placed Sauckel, in his capacity as General Plenipotentiary for the Employment of Labor, under the immediate orders of the Delegate for the Four Year Plan, the Defendant Goering. The latter bears a direct responsibility in the prosecution of the plan for recruitment of compulsory labor. I shall produce numerous proofs of this.

I ask the Tribunal to authorize me to produce as first proof the decree signed by the Defendant Goering the day after the appointment of the Defendant Sauckel. This decree, dated March 27, 1942, was published in the Reichsgesetzblatt 1942, Part I, page 180. I file it with the Tribunal under the number 12.

Goering by this decree did away with all the administrative offices of the Four Year Plan which had been charged with the recruitment of labor. He transmits their powers to Sauckel's department, thus confirming his appointment.

The powers of Sauckel between 1942 and 1944 were considerably reinforced by decrees of Hitler and Goering. These decrees gave full significance to the Defendant Sauckel's title of Plenipotentiary. They gave him administrative autonomy and even legislative competency such as he could not aspire to had he confined himself to executive tasks. The importance of the political part which he played during the last two years of the war increases by that amount the weight of the responsibility devolving upon him.

I would particularly draw the attention of the Tribunal to the decrees of the Fuehrer of September 30, 1942, and of March 30,

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1943, and to the decree of the Defendant Goering of May 25, 1942.

I will not read these decrees, which have been commented on by my American colleague, Mr. Dodd. I submit them in support of my argumentation.

I will first refer to the decree of the Defendant Goering of May 25, 1942. It was published in the Reichsgesetzblatt 1942, Part I, page 347. He delegates to Sauckel part of the powers relating to labor held by the Minister of Labor. I submit it to the Tribunal under the number 13.

Hitler's decree of September 30, 1942, gave Sauckel considerable power over the civil and military authorities of the territories occupied by the German armed forces. It made it possible for the Defendant to introduce into the staffs of the occupying authorities personal representatives, to whom he gave his orders direct. The decree is counter-signed by Lammers and by the Defendant Keitel. This appears in the collection of the directive decrees of 1940, second volume, page 58, and I submit it under the number 14.

In the carrying out of this decree representatives of Sauckel's department were in fact introduced into the Headquarters Staffs of the military commands. The interrogation of General von Falkenhausen, Military Governor of Belgium and Northern France, gives, in this connection, a proof which I would ask the Tribunal to be good enough to remember. General von Falkenhausen was interrogated November 27, 1945, by the head of the Investigation Section of the French Delegation. I submit his evidence to the Tribunal under the number 15.

I read the following extract from page 2, the seventh paragraph, of the French translation, and page 2, the fifth paragraph, of the German translation.

"Q Can the witness tell us what were the limits between his own powers and the powers of the Arbeitseinsatz?

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"A Up to a certain moment there existed in my department a labor service which concerned the hiring of voluntary workers. I no longer remember the exact date--perhaps autumn 1942--this labor service was placed under the orders of Sauckel, and the only thing I had to do was to carry out the orders which came through this way. I don't remember, but Raeder, who is also in prison--Raeder was a civilian official in the staff of General von Falkenhausen. He is very well informed about the dates and can undoubtedly give us a better idea than I can.

"Q Before the question of labor was entirely entrusted to Sauckel's organization, did there exist in the General Staff or in its services an officer who was in charge of this question? Afterwards was there a delegate from Sauckel's service in this department?

"A Until Sauckel came into power there was, in my service, Raeder, who directed the Bureau of Labor in my office. This labor office functioned as an employment office in Germany, that is to say, it concerned itself with the requests for labor, which would naturally be voluntary.

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"Q What took place when this change happened?

"A After this change the office continued to exist, but the orders were given directly by Sauckel to the Arbeitseinsatz by passing through my intermediary, or by passing through my hands."

THE PRESIDENT: Would this be a convenient time to break off for ten minutes?

Before the Tribunal adjourns I want to announce that the Tribunal will sit tomorrow, Saturday, until 1 o'clock.

(Whereupon, a recess was taken from 1120 to 1130 hours).

MR. HERZOG: I have just reminded the Tribunal of the legislative framework on which the activity of the Defendant Sauckel was exercised. This framework was reinforced by the varied decrees of the defendant. The first document attests that Sauckel deliberately assumed the responsibility of the general policy of recruiting of foreign workers -- the decree of the 22nd of August, 1942, which appeared in the Reichsgesetzblatt, 1942, Part I, page 382. This decree poses the principle of forced recruiting and makes the necessary provisions for all the human potential of the occupied territories to be put in the service of the German war machine.

Sauckel forces the inhabitants of the invaded countries to participate in the war of Germany against their Fatherland. It is not only a violation of international law, it is a crime against the rights of peoples. I submit the decree to the Tribunal under Number 17 and I shall read it.

"Ordinance Number 10 of the General Delegate for the Utilization of Labor Relative to the Employment of Labor in the Occupied Territories under date of 22 August, 1942.

"In order to mobilize the labor of the occupied territories in the new organization of the utilization of labor on the European plan, it is necessary to assure a maximum return as well as a useful and rational distribution of this force, in order to satisfy the labor needs of the Reich and of the occupied territories. By virtue of the full powers which are conferred upon me, I order:

"First: By virtue of the decree of the Fuehrer, under date of 21 March 1942, relative to the General Delegate for the utilization of labor

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and of the ordinance of the Charge D'Admission for the Four Year Plan, under date of 27 March, 1942, relative to the application of this decree, I likewise have competency to employ, as it may be necessary, the labor of occupied territories, as well as all the necessary measures to augment their efficiency. The German services being competent to utilize the labor and the policy of salaries, as the people under me will utilize the labor and will take all necessary measures to agument the efficiency according to my directives."

"Second: This ordinance extends to all the occupied territories, all the territories occupied during the war by the Wehrmacht, if they are under a German administration.

"Third: The labor available in the occupied territories must be utilized in the first place; for the satisfaction of the primeneeds, the warneeds of Germany. This labor must beutilized in the occupied territories in the following order:

"(a) For the necessary needs of the army, of the services of occupation and of the civilian services.

"(b) For the German armament needs.

"(c) For the food needs and the agricultural needs.

"(d) For industrial needs other than those of armament, in which Germany is interested.

"(e) For the industrial needs concerning the population of the territory in question."

I here end the quotation.

The second document demonstrates the will of the Defendant Sauckel to insure the responsibility of the treatment of foreign workers. It is an agreement concluded on June 2, 1943, with the Chief of the German Labor Front. I shall not read this document to the Tribunal. The document has been discussed by Mr. Dodd. I recall that it was published in the Reichsgesetzblatt in1942, Part I, page 588. I submit it in support of my declaration under Number 18.

Designated by Hitler and by the Defendants Keitel and Goering, in order to pursue, under the control of the latter, the policy of recruitment

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of compulsory labor, the Defendant Sauckel has consequently carried out his task in virtue of the responsibilities which he had assumed. I request that the Tribunal bear this in mind.

I request the Tribunal, likewise, to note that the policy of recruitment of foreign workers involves the responsibility of all German Ministers responsible for the economic and social life of the Reich. An inter-Ministerial Office, or at any rate inter-administrative, the Central Office for the Four-Year-Plan, has proceeded to formulate the program for the recruitment of foreign workers.

All departments interested in the labor problem were represented at the meetings of the Central Office. General Milch presided at the meetings, in the name of the Defendant Goering.

The Defendant Sauckel, and the Defendant Speer took part, in person, and I shall submit to the Tribunal certain statements made by them. The Defendant Funk also took part. He therefore knew of, and approved, the program for thedeportation of workers. He even collaborated in its formulation. As proof thereof I produce two documents inculpating Funk.

The first is a letter of 9 February, 1944, in which Funk is summoned to a meeting of the Central Office of the Plan. It is Document 674, which I submit to the Tribunal under Number 19. I read:

"Sir: In the name of the Central Office of the Plan, I invite you to a meeting concerning the question of the utilizationof labor. It will take place on Wednesday, the 16th of February, 1944, at 10 o'clock in themeeting room of the Secretary of State at the Ministry of Aviation, Leibziger Strasse, in Berlin. In the adjoining annex, I transmit to you some statistics on the subject of the development of the utilization of labor. These statistics will serve as a basis for the discussion at the meeting."

Funk was unable personally to attend the meeting but he arranged to be represented by Under-Secretary of State Kayler. He received the minutes of the meeting on March 7, 1944 and under this date he wrote to General Milch, in order to excuse his frequent absences from the meetings of the Office. I submit this document to the Tribunal. It is Document

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675, which I submit under Number 20. It is the account of the fifty-third meeting of the Central Office of the Plan.

The Tribunal may see on page 2 of the French translation that Minister Funk received an account of this meeting. It is shown on the second line -- Ministre d'empire Funk.

I now produce under Number 21 the letter by which Funk excuses himself to Marshal Milch because of his inability to be present at the meeting.

"Very honored and very dear Field Marshal:

"Unfortunately, the meetings of the Central Office of the Plan have always been set for dates when I am already engaged by other important meetings. So it is to my great regret that I shall be unable to be present Saturday at the meeting of the Central Office of the Plan, inasmuch as I have to speak on that day in Vienna in the course of a great demonstration in the honor of the Anniversary of the day of the Anschluss. Secretary Kayler will likewise be in Vienna on Friday and Saturday, where there will likewise be an important South-European conference, in which foreign delegates will participate and at which I must likewise speak.

"Under these conditions I beg you to be present as a representative to the meeting of the Central Office of the Plan and to have the Major General of Police, Brigade Chief of SS Ohlendorff, who is the permanent substitute."

THE PRESIDENT: Does this document tell us anything more than that the Defendant Funk was unable to be present?

MR. HERZOG: This document, Mr. President, which

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was given to me by my American colleagues, who asked me to use it in the case on obligatory labor, because they have not had time to use it in their charge against Funk, is presented to the Tribunal, to wit: to prove that Funk was following the meetings of the Central Office of the Plan and that he had permanent representatives there whom he had represent him on all occasions and who, by their report, kept him in touch with the work of the Central Office of the Plan. That is why we present to the Tribunal this document on Defendant Funk. I shall continue the quote.

"Under these circumstances, I beg you to be present, as my representative, at the meeting of the Central Office of the Plan and to invite also the Major General of Police, Brigade Chief of the SS, Ohlendorff. who is the permanent substitute of the Secretary of State, Kayler. Mr. Ohlendorf will be an expert from the Cabinet of Kayler for questions of economy of consumption and Counsellor of State, Junke, for questions concerning external commerce."

The policy of the Central Office for the Four Year Plan, pursued by the Defendant Sauckel, is shown by the mass deportation of workers. The principle of this deportation is a criminal one but the manner of its execution was even more criminal. I shall submit the proof of this to the Tribunal, in laying before it, in succession, the methods of compulsory recruitment, its results and the conditions of deportation.

I wish here to thank the members of the French Delegation and of the Foreign delegations who have come to my aid in the preparation of my work, in particular, my colleague, M. Pierre Portal, attorney at the Bar of Lyons.

The argument which I have the honor of presenting to the Tribunal will be limited to the account of the recruiting of foreign labor in occupied territories of Western Europe. The deportation of workers coming from the East will be treated by my Soviet colleagues.

During the whole of the duration of the occupation, the local field commanders imposed requisitions of labor on the populations of the occupied territories. Fortification works considered necessary for the furtherance of military operations and guard duties, made necessary by the need of maintaining the security of the occupation troops, were carried out by the inhabitants

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of the occupied areas. The labor requisitions affected not only individuals taken in islotation but entire groups. In France, for instance, they affected, in turn, groups of Indo-Chinese workers, workers from North Africa, foreign workers, and "Youth workshops." I produce in evidence an extract from the report on forced labor and the deportation of workers drawn up by the Institute of Market Analysis of the French Government. This report hears the Number 515 and I submit this to the Tribunal, under Number 22. This document, because of its importance, is present in the document book. I quote first of all page 17 of the French text and 17, likewise, of the German translation.

I read the second paragraph before the end...

THE PRESIDENT: Is this it? (indicating)

MR. HERZOG: No, it is the document in the blue book, on page 17.

"6. The Forced Recruitment of Constituted Groups:

"Finally, a last procedure utilized by the Germans on a number of occasion during the whole course of the occupation for direct forced labor, as well as for indirect forced labor, the requisition of constituted groups already trained and disiplined and consequently an excellent contribution.

"(a) Indo-Chinese Labor: This formation of colonial workers had been intended from the beginning of the hostilities to satisfy the needs of French industry in non-specialized labor, recruited and under the control of officers and non-commissioned officers of the French Army, transformed into civilian functionaries after the month of July 1940. Indo-chinese labor was, from 1945 on, obliged to do forced labor, directly as well as indirectly, in a partial manner."

I skip the table on page 19.

"The North African work between August 17 and November 6, 1942. The home country received two contingents of workers from North Africa; one composed 5,560 Algerians; the other 1,825 Moroccans. These workers were immediately obliged to do direct forced labor, which brought the number of North African workers enrolled in the Todt organization to 17,582.

"(c) Foreign labor: The law of July 11, 1938, concerning the organization of the nation in time of war provided for the cases of foreigners living in France, obliging them to provide labor, enrolled by officers and non-

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commissioned officers transformed to civilian functionaries by the law of the 9 October, 1940. But the foreign labor was progressively subjected by the Germans to direct forced labor."

I skip the table and I read sub-paragraph (d).

"Youth workshops - 29 January, 1943. The labor staff of the German Armistice Commission in Paris made known that the Commander-in-Chief West, examined whether and under what forms the formations of French work might be called upon for the accomplishment of tasks important for both countries. A partial recruiting follows and the demands for young people in the workshops for direct labor follows."

Similar requisitions took place in all the other territories of Western Europe, in the occupied territories of Western Europe. These requisitions were illegal. They were carried out by virtue of Article 52 of the Appendix to the Fourth Hague Convention. They did, in fact, systematically violate the letter and the spirit of the text of this international law.

What does Article 52 of the Appendix to the Fourth Hage Convention say? It is worded as follows: "Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country. Such requisitions and services shall only be demanded on the authority of the commander of the locality occupied."

Thus the terms in which Article 52 authorizes the requisition of services by an army of occupation are expressly formulated. These terms are four in number:

1. The rendering of services can only be demanded for the needs of the army of occupation. All requisitions made for the general economic needs of the occupying power are thus forbidden.

2. Services demanded by way of requisition must not entail an obligation to take part in military operations against the country of those rendering them. The rendering of any service exacted in the interests of the war economy of the occupying power, all guard duties or exercise of military control is forbidden.

3. Services rendered in a given area must be in proportion to its

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economic resources, the development of which must bot be hampered. It follows that any requisitioning of lable is contrary to international law if it results in the impeding of prevention of the normal utilization of the riches of the occupied country.

4. Finally, labor requisitions must, under the provisions of the second paragraph of Article 52, be carried out in the area of the locality under the administration of the occupation authority who has signed the requisition order. The transfer of conscripted workers from one part of the occupied area to another, and, even more, their deportation to the country of the occupied power are prohibited.

Labor requisitions exacted by German civilian and military authorities in the occupied areas did not honor the spirit of Article 52. They were carried out to satisfy either the needs of German economy or even the needs of military strategy of the enemy forces. They deliberately refused to acknowledge the need of ensuring facilities for a reasonable utilization of local resources; they finally took the form of migrations of workers. The case of those workers who were conscripted from all countries of Western Europe and formed an integral part of the Todt organization to help in building the system of fortifications known under the name of the "Atlantic Wall" may be taken as a typical example.

This violation of international agreements is a flagrant one; it called forth repeated protests from General Doyen, delegate of the French authorities with the German Armistice Commission. I ask the Tribunal to accept as evidence the letter of General Doyen, 25 May 1941. This letter constitutes Document 283, and it is placed before the Tribunal as session Document 23. I read:

"Wiesbaden, 25 May 1941. The General de Corps d'Armee Doyen, President of the French Delegation at the German Armistice Commission to Monsieur le General der Artillerie Vogl, President of the German Armistice Commission.

"On several occasions, and notably in my letters No. 14,263/A.E. and 14,887/A.E. of 26 February and 8 March, I have had the honor of protesting to you against the use in which the French labor was being called upon to be employed within the framework of the Todt organization in the execution of military work on the coast of Bretagne.

"I have today the duty of calling your attention to other cases in which the occupation authorities have recourse to the recruiting of French civilians to carry out services of a strictly military character, cases which are even more grave than those which I have already called to your attention.

"If, indeed, as concerns the workers engaged by the Todt organization, it may be argued that certain ones among them accepted voluntarily an employment for which they are being remunerated, although in practice most often they were not given the possibility of refusing this employment, this argument can by no means be invoked when the prefets themselves obliged at the expense of the departments and the communities of imposing guard services at important points, such as bridges, tunnels, works of art, telephone lines, munitions depots, and areas surrounding aviation fields.

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"The accompanying note furnishes some examples of the guard services which thus have been imposed upon Frenchmen, services which before this were assumed by the German Army and which normally called upon them since it is a question of participating in watches or of preserving the German Army from risks flowing from the state of war existing between Germany and Great Britain."

I here end my quotation.

The occupying authorities, before the resistance which it encountered, were anxious that their orders regarding the requisitions of labor should be obeyed. The measures which they took to this end are just as illegal, just as criminal as the measures taken for the requisition itself. The National-Socialist authorities in occupied France proceeded by legislative means. They promulgated ordinances by which sentence of death could be pronounced against persons disobeying requisition orders. I submit two of these ordinances to the Tribunal as evidence. The first was given in the early months of the occupation, October 10, 1940. It was published in the Verordnungsblatt on the 17th of October 1940, page 108. I submit it to the Tribunal under the No. 24, and I read it:

"Ordinance relative to protection against acts of sabotage by virtue of the Four Powers which have been conferred upon me by the Fuehrer and Oberster Befehlshaber der Wehrmacht, I decree the following:

"I. Whoever intentionally does not fulfill or fulfills adequately the tasks of supervision which are conferred to him by the Chief of the Military Administration in France or by a service undertaken by the latter shall be condemned to death."

I skip paragraph 2, and I'll read paragraph 3.

"In less serious cases concerning infractions provided in paragraphs I and 2 of the present ordinance and in case of neglect, the guilty may be punished by reclusion or imprisonment."

The second ordinance of the Military Commander in France to wh ich I refer is dated January 31, 1942; it was published in the Verordnungsblatt of the Militarbefehlsabers in Frankreict of 3 February 1942, page 338. I will read it to the Tribunal. I submit it under the No. 25. That reads as follows:

"Ordinance of 31 January 1942 concerning the requisitions of service and requisitions in goods.

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"By virtue of the plenary powers which have been conferred, one by the Fuehrer and Oberster Befehlshaber der Wehrmacht, I order the following:

"I. First, anyone who does not carry out these services or the requisitionsin goods which are imposed upon them by the Militarbefehlshaber in Frankreich or an authority designated by him or who accomplishes them in such a manner as to make the object of the services or requisitions fail shall be punishable by forced labor, imprisonment, or fine. A penalty of amendment may be uttered in addition to a penalty to forced labor or imprisonment.

"2. In serious cases the penalty of death may be inflicted."

These orders were protested by the French authorities. General Doyen protested on several occasions against the first of these without his protest having any effect. I refer again to his letter of the 25th of May 1941, which I have just submitted to the Tribunal, and I read on page 4 of the French translation. This is paragraph 3.

"I am charged with protesting formerly to you against such practices and to beg you to intervene so that an immediate end may be put to this. From the 16th of November, in letter No. 7,843/AE, I already protested against the ordinance that was decreed on the 10th of October 1940 by the Chief of the Military Administration in France, which provided the death penalty against any person failing to carry out or carrying out inadequately the tasks of surveillance imparted by the occupation authorities. I protested then that this requirement, as well as its punishment, were contrary to the spirit of the Armistice Convention, whose object was to relieve the French population from any participation in the hostilities. I had limited myself to this protest in principle because at the time no concrete case in which such task of surveillance might have been imposed had been called to my attention, but it was not possible to accept as justifying the ordinance in question.

"In arguments which you furnished me in your letter No. 1361 of 6 March, you pointed out there, at Article 43 of the Hague Convention, that the occupying power had the authority to legislate, but the power to which you refer in this very article is subject to two qualifications: There can be legislation only to establish and to assure as far as possible public order and the necessities of public life. On the other hand, the ordinances

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decreed must--"

THE PRESIDENT: You have given sufficient evidence to show that General Doyen protested to the gentl eman. Read all the argument which was put forward on the one side or the other.

MR. HERZOG: I shall then stop this quotation, Mr. President.

The German ordinances which I have just read to the Tribunal thus contained formal violations of the general principles of the criminal legislation of civilized nations; they were made in contradiction of Article 52 at the fourth convention of the Hague, and in contradiction, also, were Article 43, on which they were supposed to be based. They were, therefore, illegal and they were criminal since they provided death sentences which no international law justifies.

The system of labor requisition furnishes the first example of the criminal character of the methods pursued by the defendants in the execution of their recruiting plan of foreign labor.

The National Socialist authorities then had recourse to a second procedure to give an appearance of legality to the recruiting of foreign workers. They called upon workers who were so-called volunteers. From 1940 on, the occupation authorities opened recruiting offices in all the large cities of the

occupied territories. These offices were placed under the control of a special service instituted to this effect within the general staff of the Commanders-in-Chief of the occupation zones.

The Tribunal knows that these services from 1940 to 1942 functioned under the control of the General. From 1942 on, and, more precisely, from the day when the defendant Sauckel became the plenipotentiary of labor, they received their orders directly from the latter. General vonFalkenhausen, Commander-in-Chief in Belgium and in the north of France, declared in the testimony which I just now read to the Tribunal that from the summer of 1942 on he had become the simple intermediary in charge of transmitting the instructions given by Sauckel to Arbeitseinsatz.

Thus the policy of the German employment offices set up in the occupied areas was carried out on the sole responsibility of the defendant Sauckel from 1942, under the responsibility of defendant Sauckel, being his direct chief, the delegate to the Four-Year Plan, the defendant Goering. I ask the Tribunal to make note of this.

The task of the employment offices was to organize the recruiting of workers for the factories and workshops set up in Europe by the Todt organization and by the Wehrmacht, Kriegsmarine, Luftwaffe, and other German organizations. It was also their task to obtain for the German munition factories the amount of foreign labor needed. Workers recruited in this way signed a labor contract. Thus they had, theoretically, the status of free workers and were apparently volunteers.

The occupation authorities always made a point of the voluntary nature of the recruiting carried out by the employment offices. But the lines taken by their propaganda systematically took no account of what they were actually doing. In fact, the voluntary character of this recruiting was entirely fictitious. The workers of the areas who agreed to sign German labor contracts were subject to physical and moral pressure.

This pressure took several forms: it was sometimes collective and sometimes individual; in all its forms it was heavy enough to deprive the workers who suffered under it of their freedom of choice. The nullity

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of contracts entered into under the reign of violence is a fundamental principle of the common law of civilized nations. It is found just as expressly stated in German law as in the laws of the powers represented in the Court or the states occupied by Germany. The German employment offices forced on the foreign workers labor contracts which had no legal significance because they were tainted with violence. I make this as a definite statement and I will provide the Court with proof of my assertions.

First of all, I will show that the pressure was premeditated by the Germans. The pressure under which the foreign workers suffered was not the result of sporadic action on the part of subordinate authorities. It came from the deliberate intent which the National Socialist leaders of Germany formulated into precise instructions.

I submit to the Tribunal Document 1183-PS, which is the French Document 26. This is a directive dated January 29, 1942, dealing with the recruiting of foreign workers. This directive comes from the Arbeitseinsatz of the commissariat for the four-year plan. It bears the signature of the Section Chief, Dr. Mansfeld, but it places the executive responsibility directly on the defendant Goering, delegate to the four-year plan. I read this circular:

"Berlin, 29 January 1942. Subject: Increased mobilization of manpower for the German Reich from the occupied territories and preparations for mobilization by force.

"The labor shortage which was rendered more acute by the draft for the Wehrmacht and, on the other hand, the increased scope of the armament problem in the German Reich, render it necessary that manpower for service in the Reich be recruited from the occupied territories to a much greater extent than heretofore in order to relieve the shortage of labor. Therefore, any and all methods must be adopted which make possible the transportation without exception and delay for employment in the Reich of manpower in the occupied territories which is unemployed or which can be released for use in Germany after most careful screening."

I read further on Page 2 of the German text:

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"This mobilization as heretofore shall be carried out on a voluntary basis. For this reason the recruiting effort for employment in the German Reich must be strengthened considerably, but if satisfactory results are to be obtained the German authorities who are functioning in the occupied territories must be able to exert any pressure necessary to support the voluntary recruiting of labor for employment inGermany. Accordingly, to the extent that that may be necessary the regulations in force in the occupied territories in regard to shifting employment or withdrawal of support upon refusal to work must be tightened.

"Supplementary regulations concerning shift and distribution in employment must above all insure that older personnel who are freed be exchanged for younger personnel to make up for it so that the latter may be made available for the Reich. A far-reaching decrease in the amount of relief granted by public welfare must also be effective in order to induce laborers to accept employment in the Reich. Unemployment relief must be set so low that the amount in comparison with the average wages in the Reich and the possibilities there for sending remittances home may serve as an inducement to the workers to accept employment in Germany.

"When refusal to accept work in the Reich is not justified the compensation must be reduced to an amount barely enough for subsistence or even be cancelled. In this case partial withdrawal of ration cards and an assignment to particularly heavy, obligatory labor may be considered."

I here end the quotation.

I call to the Tribunal's attention that this circular is addressed to all the services responsible for labor in the occupied areas. Its distribution in Western Europe was: the Reich Commissar for the occupied Norwegian Territories, the Reich Commissar for the occupied Dutch territories, the Chief of the Military Administration of Belgium and Northern France, the Chief of Military Administration of France, the Chief of the Civilian Administration of Luxemburg, the Chief of the Civilian Administration at Metz, and the Chief of the Civilian Administration at Strasbourg.

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It is thus proved that a general common plan existed with a view to compelling the workers of the occupied territories to work for Germany. I have now to show how this plan was put into practice in the different occupation zones. The machinery of pressure which the National Socialist authorities exerted on the foreign workers can be analyzed in the following manner.

German labor offices organized intense propaganda in favor of the recruitment of foreign workers. This propaganda

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was intended to deceive the workers of the occupied areas with regard to the material advantages offered them by the German employment courts. It was carried out by the press, the radio, and by every possible means of publicity. It was also carried on as a side-line to official administrative duties by secret organizations which had been given the task of debauching foreign workers and bringing about through this a ventable impressment.

These measures proved themselves to be insufficient. The occupation authorities then intervened in the social life of the occupied countries. They strove to produce artificial unemployment there. At the same time they devoted their energies to making living conditions worse for the unemployed.

In spite of unemployment and the poverty with which they were threatened, the foreign workers showed themselves insensible to German propaganda. This is why the German authorities finally resorted to direct methods of pressure. They exercised pressure on the political authorities of the occupied countries to make them give support to the recruiting campaign. They compelled employers, especially in France and the organizational committees, to encourage their workers to accept the labor contracts of the German employment offices. Finally, they took action by way of direct pressure on the workers, and gradually passed from so-called voluntary recruitment to compulsory enrollment. The fiction of voluntary enrollment was dispelled by the sight of individual arrests and collective raids of which the workers of the occupied areas rapidly became the victims.

There are innumerable documents capable of providing proof of the facts which I relate. I shall submit the most important of these to the Tribunal. The documents which bring the proof of the publicity campaigns made in France by the German administration will be submitted to the Tribunal by Mr. Edgar Faure in the course of his argument on the Germanization and Nazification. By way of example I wish to draw upon a document which in the printed classification bears the Number 516, and which I submit under the number of French Document 27.

This is a report of the Prefect of the Department of the North to the Delegate of the Minister of the Interior, with the General Administrator of the French Government in the occupied territories. This report points out that

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a publicity car is circulating through the French territory to incite French workers to go to Germany. I quote the report:

"Lille, March 25, 1942. Prefect of the Region of the North to M. Prefect, Delegate of the Minister of the Interior with the General Delegation of the French Government in the occupied territories. Subject: German publicity car.

"I have the honor of advising you that for some days a publicity car covered with signs of propaganda inviting French workers to sign up to go and work in Germany has been circulating in the vicinity of Lille, while a loud speaker plays a whole repertoire of discs of French music, among which are featured the "Marche Lorraine", and the hymn "Marechal, Here We Are."

I cease here the quotation.

(Whereupon at 1245 hours the hearing of the Tribunal adjourned to reconvene at 1400 hours.)

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Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 18 January 1946, 1400-1700, Lord Justice Lawrence, presiding.

M. HERZOG: Mr. President, your Honors. I wished this morning to show what had been the official propaganda given out by the German offices in France to volunteers to work in Germany. The result of this official propaganda was reinforced by the bureaus of clandestine retruitment. The true offices of recruiting were authorized by the Tribunal -- these employment Bureaus were directed by German agents who seated often in insuring local publicity. In fact, in france, these Bureaus extended their ramifications in the non-occupied zone to the occupied zone. Several documents attest their existence. The fifth among them is a report transmitted the 7th of March, 1942, by the Vice-President, the Council of Ministers, the de facto Government of Vichy, to the General Delegate for Franco-German Economic Relations. It is document 654. This report is drawn under the seal; it bears the signature of the General Staff, Captain De Fontaine. I file this report under the new No. 28 and I read it:

"Vichy, the 7th of March, 1942. Your Honor, The General Delegate; I have the honor of transmitting to you in this letter for your information a report on the organization of recruitment in France of workers for the German industry."

I now go to page 2. "26 of February, 1942. Note: Another item on the organization of recruiting in France, workers for German industry: Source, excellent. First: organization of recruiting in France for workers for Germany was the Mechanical Society of the Seine dont le Siege Paris, at 8th Quai Nationale, which was also known as ANS. This society was to function under the secret control of the commander, and three engineers. One would have the capacity of chief engineer; the other two would be M. Meyer and M. Schronner. Outside of their work, which they are required to carry out, this society is particularly entrusted for the reeducation

of workers recruited in France and sent to Germany at the request of German industrial houses; and in full payment of, the society of AMS is assisting for these operations in the occupied zone by three centers of recruiting which functions are in Paris and are the center of Porte De Vincennes, the center of Courbevoie, 200 Boulevard St. Denis. The center of Avenue des Tourelles.

These are centers also entrusted with the coordination, the operation for recuritment of a non-occupied zone. For this zone, the two principal centers are in Marseilles and Toulouse. A third center existing at Tarbes.

"A. The center of Marseille is entrusted with the recruitment in the Meditteranean zone, under the direction of M. Meyer, which is treated below: They ignore the address of this engineer, but one can see many or have information about him in No. 24 Avenue Kleber, Paris, or Militarbefehlshaber at Marseille. The office of the AMS is situated at 85 Rue de Silvabelle. In his task M. Meyer is assisted by M. Ringo, residing in Madrague-Ville, 5 bis Boulevard Bernabo, near the slaughter house."

I here end my quotation, to submit to the Tribunal the correspondence exchanged between the month of December 1941 and January 1942, between the Prefect of the Alpes Maritimes and the authorities of the Vichy Government. This is Document 528 which I file with the Tribunal as No. 29. This correspondence emphasizes the activity of the agents for the clandestine recruiting of the Germans, and particularly M. Meyer, to whom the report of Captain Fontaine applies:

I quote first the letter of the 10th of December. It is the letter which is the fifth page of the French text and the 7th page of the German text, "10th of December, 1941. Nice: The State Counseller, Prefect of the Alpes Maritines to his Honor, the Minister Secretary of State for the Interior, General Secretariate for the Police; under the direction of the Foreign Police in the Occupied territory and of Foreigners."

"Object: The activity of foreign agents, attending to the discharging of specialized workers. Reference: The program 12,402, and 12,426; the 28th of November, 1941. My report: 955 and 986 of the 24th of November, 1941, and the 6th of December, 1941, by which my report referred to. I pointed out to you the activity of recru iting agents who sought to have

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discharged specialized workers forthe benefit of Germany. I have the honor to address you below, to give you a few complimentary indications gathered in this respect; The German engineer, M. Meyer, and the French subject, M. Bentz. Benefits stopped on the 1st of December 1921 at the Hotel Splendid, at Nice, coming from Marseilles."

Now, I go to the third paragraph before the end. I permit myself to particularly draw the attention of the Tribunal to the fact that in Paris the hiring of workers was carried out for Germany. I start here the quotation:

"These documants attest the activity of the clandestine recruiting offices and the way in which they developed. I am not merely satisfied to point out their existence. I wish to show that these Gaus functioned under the initiative of the official administration and of the German Office for Labor." The proof is furnished by a statement which the accused Sauckel made the first of March, 1944, during the 54th conference of the central of the office for the Four-Year-Plan. The stenographic transcript of these conferences have been found. If forms document R-124, to which my American colleagues have already referred. I submit it again to the Tribunal under No. 30 and I shall read from an extract of the transcript of the session on the 1st of March 1944. Document No. 30, in the French text, page 2, second paragraph; in the German text, 1760, 70 and 71. I read:

"The most abominal thing accomplished by my adverseries, and speaking of Sauckel, it is that they pretend that no executive measure has been foreseen in these sectors to recruit in a rational manner the French, the Belgians, and Italians to semd them to work. Thereupon, I wish to employ and train a whole group of French male and female agents who, for adequate remuneration, just as it was done in older times through shangaiing, while hunting for men and intoxicating them with alcohol."

THE PRESIDENT: I am told that this has been read before by the United Sates.

M. HERZOG: I will not go on. Now, I pass to the propaganda of the official offices and that of the clandestine recruiting offices which I will reveal to be inefficacious. The National Socialist authorities then had resort to methods of economic pressure. They tried to give to the workers who were not for Germany the hope of material advantages. I submit in this relation in respect to this, an ordnance of the General Military Command in Belgium and in the North of France, which I submit to the Tribunal. It is an ordnance of July 20, 1942, which appeared in the Verordnungsblatt of Belgium -- it exempts from tax Belgian workers who work in German factories. I submit to the Tribunal under the No.21. On the other hand, the occupation authorities sort to diminish the living standard of workers who remained in the occupied territories. I said that they had made poverty a factor in their recruiting policy. I am going to prove it by showing how they went about creating artificial employment in the occupation zones and to deteriorating the m aterial situation of the unemployed.

I note for the record that the German authorities also practiced a policy of freezing salaries. This measure favored the recruiting campaign for labor who were to leave for Germany, and had also an economic bearing, and I would like to refer the Tribunal to the explanations which will be given to it on this point by M. Gerthoffer.

Unemployment spread about by two complimentary measures. The first is the regulation of the legal length of work. The second: concentrations, if need be, the closing of industrial enterprises.

From 1940, the local Feldkommandants concerned themselves with increasing the duration of work in their administrative zones. In France, initiative taken by the local authorities brought about a strong reaction. The proble was generalized and solved on a national plan. Long negotiations were imposed on the representatives of the pseudo-Government of Vichy and finally an ordnance of April 22, 1942, from the military command in France, reserved for the occupation authorities the right of fixing the duration of work of

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industrial enterprises. This ordnance appeared in their Verordnungsblatt Frankreich, 1942. I submit it to the Tribunal under the No.32 and I quote the first paragraph : First part:

"For establishment and enterprises of all kinds a minimum of working hours may be imposed. This minimum of the length of work will be decreed for a whole economic region or for certain economic fields or for individual enterprises."

In Belgium, the length of work was fixed by an ordnance, by a directive, the 6th of October, 1942, which appeared in the Verordnungsblatt of Belgium. I submit this ordnance to the Tribunal under No. 33. The regulation of the duration of work. That is why the National Socialist authorities used a second method. Under the pretext of rationalizing production, they brought about a concentration of industrial commercial enterprises which certainly were closed on their initiative. I cite in this relation the provisions which were taken or imposed by the Germans in France, in Belgium andin Holland. In France, I would like to refer to two texts; the first is the Law of the Vichy Government of 17 December 1941, which I submit to the Tribunal under the No. 34.

The second text to which I wish to draw the attention of the Tribunal is the ordnance of February 25, 1942, issued by the Military Command in France. This ordnance appeared in the Verordnungsblatt für Frankreich.

I guess I shall read from it to the Tribunal; this ordnance seems particularly important because the principle of the compulsory closing of certain French enterprises definitely established by a legislative text by the occupying power. I shall read the first and second paragraph. The first paragraph:

"If the economic situation, notably the use of raw materials and indirect materials for the manufacture, require from the establishments and economic enterprises, surprised that these establishments may be closed completely or partly."

Second paragraph:

"The closing of these enterprises were pronounced by the General

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Feldkommandantur by means of a written notification addressed to the establishment or to the industrial enterprise."

In Belgium I refer to the ordnance of the Military Command, March 30 and October 3, 1942, which appeared in the Verordnungsblatt in Belgium.

I submit to the Tribunal the ordnance of March 30, under No.36.

In Holland the regulating provisions of the occupying authorities were restricted to elsewhere. I present an ordnance of the Reichscommissar for the territories of occupied Holland, 15 of March, 1943. I submit it to the Tribunal under No.37. This ordnance presents a double interest. First it offers precise information which emphasizes the method with which the German services executed their recruiting plan.

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It constitutes, on the other hand, the first document which I shall submit to the Tribunal accusing the accused Seyss-Inquart.

The policy of Sauckel was found in Holland with the collaboration of Reichskommissar Seyss-Inquart. The ordinances and compulsory labor in Holland have all been rendered under the responsibility of Seyss-Inquart, whether it bears, directly or not, his signature. I ask the Tribunal to note this.

The increase of the legal length of work and the closing of industrial enterprises deprived thousands of workers of their jobs.

The defendants did not hesitate to use material constraint to incite the unemployed to work in behalf of Germany. They threatened the unemployed to do away with their unemployment compensation. This threat was made on several occasions by the local Feldkommandants in Occupied France. I find the proof by the protest made March 8, 1941, by General Doyen, representing the French authorities with the German armistice commission. The document is 232, which I submit to the Tribunal under the number 38. I read the first page, third paragraph:

"Moreover, the occupation authorities foresee that the workers who refuse to work will see their right suppressed for unemployment compensation and will be susceptible of being prosecuted by the war tribunal for sabotage of Franco-German collaboration."

Far from disavowing the initiative of their local authorities, the central office for labor gave them instructions to continue this policy. The proof is furnished by the directive of Dr. Mansfeld, dated January 29, 1942, which I have just submitted to the Tribunal under the No. 26, in which instructions were given that unemployment compensation should be utilized to force workers to go Germany.

The directive of Dr. Mansfeld shows that the blackmail of the National-Socialist leaders was not only exercised over the control of unemployment compensation, but also in the issuing of ration cards.

Moreover, the accused tried to force the inhabitants of the occupied territories to leave for Germany by increasing their difficulties in finding food. The proof of this desire is given in the transcript of the session of March 1, 1944, of the Conference of the Four Year Plan. This document I

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referred to a short time ago as No. 30. This is a passage which has not yet been read, which the Tribunal will please permit me to read. I read from page 5 of the French document. "Melch" is a misprint. It should be milch, m-i-l-c-h.

"Wouldn't the following method be better: The German administration should concern itself with the feeding of Italians and say to them: 'No one shall receive food except he who works in a protected factory or who leaves for Germany.'

"Sauckel: Is it true that the French workman in France is better fed than the German workman? The Italian workman, even if he doesn't work at all, is better fed in the part of Italy which we occupy than if he worked in Germany." I end my quotation here.

I have shown the Tribunal that these measures were measures of an economic order--economic-social--which the National-Socialist authorities took to force workers in the occupied territory to accept labor contracts offered by the German authorities. This indirect duress was strengthened by direct pressure which was simultaneously put on the local governments and the employers and on the workers themselves.

The National Socialist leaders knew that their recruiting policy could be facilitated by the local authorities; that is why they tried to make the pseudo-governments of the occupied territories guarantee or indorse the fiction of voluntary enrollments. I submit to the Tribunal an example of the pressure which the German authorities placed on the Vichy Government to that purpose.

They first arranged that the State Secretariat of Labor should issue or disseminate a directive to all Prefects. It is the directive of March 29, 1941. The German authorities were not satisfied with this directive. They were conscious of the illegality of their recruiting methods and they wished to justify them by an agreement with the de facto government of France. They required that this agreement be made known by public statement. The negotiations were carried out for this purpose in 1942. The violence of the German pressure is substantiated by the letters concerning it addressed by Dr. Michel, Chief of the Administrative Section to the General Delegate for Franco-German Economic Relations. I refer especially to his letters of the 3rd

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of March, 1942, and May 15, 1942, which constitute Documents 39 and 40. I read first to the Tribunal the letter of 15 May, which is under the number 40:

"Paris, 15 May 1942.

"Purpose: The Recruiting of French Labor for Germany.

"As the result of the conversations of January 24, 1942, and after repeated appeals, the first project of the French government concerning recruiting was presented the 27th on the German side and was accepted with slight modifications and in written form on the 3rd of March, on the condition that attention might be directed at the time of its transmission to the organizational committees, and that attention might be drawn to the fact that the French Government approved expressly the acceptance of labor in Germany.

"On the 19th of March, it was recalled that a project for the memorandum to the organizational committees should be submitted. The project was afterwards submitted on the 27th of March. On the 30th of March a proposal for modification was delivered to M. Terray, who should take it up with M. Bichelonne.

I skip the two following paragraphs, and I will read the last paragraph:

"Although no reason appears which explained the not habitual delay, the project was not presented until that day. More than two months had passed since the first request for the presentation of the memorandum. It is requested that this document be edited anew and presented the 19th of May.

"For the Military Commander:

"Chief of the Administrative Staff

"Signed, Michel."

The Tribunal undoubtedly has observed that Dr. Michel required not only a widespread diffusion of the publication. He also required that the text of this statement be officially transmitted to the organizational committees. The pressure which occupation authorities put upon French industrial enterprises to stimulate them to facilitate the departure of their workers to Germany was brought about, in fact, through the medium of the organizational committees. The German offices for labor acted directly upon the organizational committees. They ordered conferences in the course of which they dictated their will to the

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leaders of these committees. They also required that the organizational committees be informed of all the measures which the French authorities were led to take. The committees might then be associated with these measures in the interests of German policy.

The correspondence of Dr. Michel offers numerous examples of the constant preoccupation of the German authorities to act upon the organizational committees. I have just offered an example to the Tribunal. I now offer another.

In 1941 the Germans requested especially that the directive of March 29, 1942, addressed to the Prefects regarding the recruiting of laborers for Germany, should be officially transmitted to the organizational committees. The occupation authorities obtained satisfaction through a circular of the 23rd of April, which I submit to the Tribunal under No. 41. The terms of this circular did not receive the approval of the German authorities, and on May 28, 1941,

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Dr. Michel protested in violent terms to the General Delegate for Franco-German Economic Relations. This protest constitutes Document 522 in the French Archives. I submit it to the Tribunal under the No. 42, and I shall read:

"Paris, 28th of May, 1941.

"Purpose: Recruiting of Workers for Germany.

"From your explanations I gather that after the reception of my letter of the 23rd of April a project for a directive for the organizational committees was established and sent on April 25. This directive does not seem to me, nevertheless, adequate to bring about in an efficacious manner the recruiting of workers effected by Germany. That is why I consider that it is necessary that in another directive attention may be drawn to the points which were particularly mentioned on April 23.

"I request you to submit to me as soon as possible a corresponding project. The contribution which has been furnished from Germany for the creation of a favorable atmosphere, which was considered by you at the time of our conversation of 24 May, is a prior condition for the success of forced recruiting of workers for Germany. That is why I do not wish to make a mistake. I hope that you will communicate to the economic organizations a reform which will be of such a nature as to transform into collaboration, as far as the liberation of workers is concerned, the expected attitude which French economy has observed up to here. I then expect that you will submit to me your proposition with all possible promptness."

And, finally, the German authorities placed direct pressure upon the workers themselves.

THE PRESIDENT: Are you reading from the document now?

M. HERZOG: No. I am resuming the text of the brief.

Moral pressure at first. The replacement operation, tried in France in the Spring of 1942, is characteristic. The occupation authorities promised to compensate for the sending of French workers to Germany by a liberation of prisoners of war. The return of a prisoner was to take place upon the departu of a worker. This promise was fallacious, and the reality was quite different. I quote in this connection, the report on compulsory labor and the deportation of workers, which I have submitted this morning to the

Tribunal under the number 22. I quote page 51, and, from the French original, 22. In the French original it is the third paragraph; the German translation, first paragraph:

"If the press, inspired by the occupying power, pretends in its commentaries to applaud the replacement postulates of one prisoner for one worker, it is undoubtedly upon order and through calculation. Also, it seems, because until June 20, 1942, the day before the pre-quoted speech, a speech of the Vichy de facto government, it is indeed this proportion which the Germans Michel and Ritter had pretended to accept in their reports to the French administrative services. The proportion, in fact, of one against five, appears to have been to these latter a surprise of which the press never spoke." Here I end my quotation.

The pressure of which foreign workers were victims was also a material pressure. I said that the fiction of voluntary enrollment could not hold water, in view of the arrests by the German police. I refer again, and submit a document to the Tribunal which furnishes a characteristic attitude of the Germans in their mentality and the method utilized by National Socialist authorities. This is a document in the French Archives. It is No. 527, which I submit to the Tribunal under the number 43. This is a letter from the delegate of the Reich Labor Minister in the French department of Pas de Calais. This Officially enjoins a young French workman to depart for Germany as a free agent under penalty of unfavorable consequences. I read the document from the third page:

"Sir:

"The 26th of March last I told you at Marquise to go to work in Germany for your profession. You were to leave with the convoy of the 1st of April towards Germany. You have taken no consideration of this summons. I warn you that you must repair yourself, furnished with your baggage, next Monday, April 28, before 19 hours, at 51 Street of the Rue de la Pomme d'or at Calais. I declare it will be as a free worker that you leave for Germany; that you will work there in the same conditions and that you will earn there the same remuneration as German workers. In the event that you do not present yourself, I must tell you that unfavorable consequences may very well follow.

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"Delegate for the Labor Ministry of the Reich:

"Signed: Hannerann"

The proof of the constraint which the German authorities exercised on the workers of the occupied territories to bring about their alleged voluntary enrollment may be continued. The National Socialist authorities have not only imposed labor contracts filled with threats of violence to foreign workers. They have themselves deliberately failed to honor these contracts.

I find that proof of it in the fact that they have unilaterally prolonged the duration of the enrollments made by foreign workers. This proof is based on several documents. The first is an ordinance issued by the defendant Goering in his capacity as Delegate to the Four Year Plan. Others by the defendant Sauckel. I now call the attention of the Tribunal to order of Sauckel's, dated 22 March 1943, which I submit to the Tribunal; it is March 29, 1943, No. 44, Document No. 44, page 5:

"The General Plenipotentiary for Labor decrees: The regular carrying out of the clauses of a contract for a stipulated time, concluded by the foreign worker, necessitates for the whole duration of the contract that the workman shouldput all his energies at the disposal of the enterprise for that period. Nevertheless, it happens that foreign workers, as the result of negligence, or delays in their return to work, or because of the expiration prison sentences, or because of internment in a corrective camp -- "

THE PRESIDENT: Are you reading from a document: Will you read that again.

M. HERZOG: The regular accomplishment of the provisions of the contract with a stipulated duration made by the foreign worker necessitates for the whole duration of the contract that the workman should be at the disposal of the undertaking with all of his full physical forces. Nevertheless, it happens that some foreign workers as a result of idleness, or laziness, or delays, when they come back to work they expiate all present penalties of internment in a corrective camp.-

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"-- or for other reasons remain absent from their work for an elapse of time, which is more or less long. In such cases the foreign worker will not be authorized to return to their country when the elapse of time for which they agreed to work in Germany represents only the well defined period of time."

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Kept by force in the German factories which they had entered by duress, the foreign workers were neither voluntary workers nor free workers. I think the exploitation of the methods of German recruiting will show the Tribunal the fictitious character of the voluntary enrollment on which it was supposed to be based. The foreign workers who agreed to work in the factories of the National Socialist war industry did not act through free will. Their number, however, remained limited. The workers of the occupied territories had the physical courage, the ethical courage to resist German pressure. This is proved in an admission of the defendant Sauckel, which I take from the minutes of the meeting of March 3, 1944, of the conference of the Four-Year Plan. This is from an extract which has already been read by my American Colleague, Mr. Dodd, so I will not read it again to the Tribunal. I merely wish to recall that the defendant Sauckel admitted that out of five million foreign workers which came to Germany, there were only to hundred thousand who came in a voluntary fashion. The resistance of the foreign workers surprised the defendant Sauckel as much as it irritated him. One day he expressed his surprise to a German general who replied: "Your difficulties come from the fact that you address yourself to patriots who do not share our ideals." Indeed, only force could constrain the patriots of the occupied territories to work in behalf of the enemy. The National Socialist authorities resorted to force.

The Germans had from the first the possibility of imposing their policy of force on workers whose particular status guaranteed enrollment and apparent submission: The prisoners of war. From 1940 on the German Military authorities organized labor Kommandos who had been put in the service of the agricultural economy, and of the war industry. The importance of the work required from war prisoners is substantiated by the Report on Forced Labor, and the Deportation of Workers which I have filed with the Tribunal under No. 22, on page 68 of the French Text, and Ferman, the following estimates:

There were at the end of 1942, 1,036,319 French prisoners of war in Germany. 987,687 had been alloted as work Kommandos, and, only the surplus, that is, 48,632 prisoners remained unemployed.

The utilization of prisoners of war in German factories does not constitute a distant phenomena which can be disassociated from the gerneral plan for the

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recruiting of foreign workers; it is, on the contrary, an integral part of this plan. The National Socialists have always considered that the obligation to work applied as much to war prisoners as to the civilian workers of the occupied territories. They have on many occasions expressed such a belief.

I refer the Tribunal especially to two documents. The first is the decree of the appointment of the accused Sauckel which I have filed with the Tribunal at the beginning of my explanatory remarks. The second document to which I wish to draw the attention of the Tribunal is the first decree of Sauckel, which I submitted sometime ago under No. 17. This decree formulates the principle of the obligation to work, and applies to war prisoners according to the terms of its Article 8.

Finally, Sauckel had in another document affirmed that the prisoners of war were to be subject to work in the same degree as civilian workers. This is found in the letter which he wrote to the defendant Rosenberg on April 24, 1942, some days after his appointment to explain his project to him. This is Document 016-PS, which my American Colleague, Mr. Dodd, has already submitted to the Tribunal. I present it as Document No. 45, but I shall not read from it. I find beginning on page 11 of the German Text that the problem of compulsory labor is treated in the general heading entitled, Prisoners of War and Foreign Workers." These documents bring a double proof to theTribunal, first of all, they reveal the will of the National Socialists to force prisoners to work in behalf of the German war economy, within the general frame of their recruiting policy.

In the second place, these documents establish that the utilization of prisoners of war was not due alone to military authorities; this utilization was ordered and systematized by a civilian organization, that of the Arbeitseinsatz. As well as the responsibility of the defendant Keitel it entails also that of the German leaders who conducted the labor policy; the defendant Sauckel, the defendant Speer, and the defendant Goering.

The Tribunal knows that international law regulates the conditions under which prisoners of war may be forced to work. The Hague Conventions formulated rules which were clarified by the Geneva Convention in Articles 27, 31 and 32.

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"ARTICLE 27:- Belligerents may use as workers healthy war prisoners according to their rank and their attitudes with the exception of officers and assimilated officers. Nevertheless, if officers, or those of assimilated rank ask for suitable work it will be procured for them as far as possible. The non-commissioned officers who are war prisoners can only be forced to work as supervisors unless they expressly request a remunerative occupation.

"ARTICLE 31:- The work furnished by the prisoners of war ---"

THE PRESIDENT: I think we will take judicial notice of these Articles.

M. HERTZOG: These rules of positive international law, rather calculated international law determine the legal powers of the Power and Custody of prisoners of war. It is legal to force prisoners of war to work during the duration of their captivity, but this includes three legal limits:

1. It is forbidden to require non-commissioned who are prisoners to work unless they have expressly requested to do so.
2. War prisoners must not be used for work which is dangerous.
3. Prisoners must not be associated with the enemy war effort.

The National Socialist authorities systematically neglected these imperative provisions; they have exercised violent constraint on non-commissioned officers held in captivity, to force them to join labor crews; they have integrated war prisoners as workers in their factories, and in the work yards, without considering the nature of the work imposed upon them.

The utilization of war prisoners by National Socialist Germany took place under illegal and criminal conditions. This I declare, and I wish to prove this to the Tribunal.

M. HERZOG: Mr. President, Your Honors.

Dating from 1941 the Germans exercised direct pressure on non-commissioned officers to force them to engage in productive work for the Reich war economy. This pressure, after the failure of propaganda methods, took the form of reprisals. Abstaining non-commissioned officers were the object of ill treatment; they were sent to special camps, where they were subject to a disciplinery regime. Some incurred penal sentences because of their refusal to work.

I file as proof the report of the Ministry of Prisoners, Deportees,

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and Refugees of the French Government, Document UK 1782, which is, in my document book, number 46. The document is in a white file. I shall read from page 18 of the French original, page 10 of the German translation.

Page 18, at the bottom of the page:

"Work of the Non-Commissioned Officers.

"On this subject the Geneva Convention was formal and absolute. Non-commissioned officers who were war prisoners cannot be subjected to surveying work except on express request, with a remuneration. In conformity with this article, a certain number of non-commissioned officers refused to work from the beginning of their captivity.

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"The force of the imprisoned non-commissioned officers was, at the end of 1940, about 130,000 and represented later a very important source of labor for the Reich. The German authorities tried, therefore, by every means, to induce the greatest number of refractories possible, during the last months of 1941 to this effect: The non-commissioned officers who did not volunteer for the work were, in most camps, subjected to alternate regimes. For a few days they were subjected to punishments like diminution of food rations, obligation to undergo physical exercises for several days; during another period they were promised work in conformity with their wishes, and other material advantages, for example, special regulations on insurance, extra letter provisions, and wages.

"These methods led a certain number of non-commissioned officers to accept work. The non-commissioned officers who persisted in their refusal to work were subjected to a disciplinary regime, a very severe disciplinary regime, and of painful physical exercise."

The National Socialist military authorities utilized the prisoners of war for dangerous work. The French, British, Belgian and Dutch prisoners were used to transport munitions, to load bombs on planes, for the reconstruction of aviation camps, and for the construction of trenches.

The proof of the use of prisoners of war for the carrying of munitions and for the loading of bombs on planes is furnished by the affidavits of repatriated French prisoners of war. These affidavits have been assembled in the report of the Ministry of Prisoners, which I have just quoted, and which I shall quote anew.

I now quote page 27 of the French document, page 14 of the German translation. It is the same document as that which I have just quoted, Document 46.

Page 27, (b):

"The requisition of prisoners for the construction of fortifications for the transport of munitions is very often in the close vicinity of the line of fire.

The war prisoners, kommando 274 of Stalag 2-B, complained, December 1944, at being employed on Sundays in the construction of anti-tank trenche

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"On 2 February, 1945, the prisoners of Stalag 2-D, evacuated before the advance of the Russian Army, worked, as soon as they arrived at Statzlitz, at fortification works, anti-tank works in particular, around the city.

"At the moment, falling back from Stalag 3-B, the war prisoners were engaged, to the end of April, in doing ditch work, digging trenches, and in transporting aviation bombs.

"Kommando 553 at Label was obliged to carry out work in the front lines under the fire of Russian artillery.

"Numerous comrades, drawn back at Firchtenwald, were employed in loading bombs on German bombadiers.

"In spite of their protests to the International Committee of the Red Cross of Geneva and to the colonel commanding Stalag 3-B, very bad hygiene, insufficient food, the latter answered that he was obeying superior orders of the OKW to dig trenches, ordering the prisoners to dig trenches."

The National Socialist leaders, for that matter, admitted that they used French and British prisoners of war for military work on airdromes exposed to allied bombardment. I offer in proof two memoranda, the first by the OKH to the War Prisoners Section of the Wehrmacht, and the second by the Wilhelmstrasse to the German representative at the Wiesbaden Armistice Commission.

The memorandum of the OKH, dated October 7, 1940, constitutes Document 549. I lodge it with the Tribunal under Number 47, the French documentatio and I read it in full:

"The protest of the French Delegation shall be considered as unfounded. The lodging of war prisoners in camps situated in the vicinity of aviation fields is not in contradiction with the rules of the rights of peoples.

"According to Articles 9 and 4 of the Convention on the treatment of war prisoners - of 27 July, 1929 - no prisoner of war must be exposed to the fire of the combat zone in the sense of this regulation. It must be understood as the space or area in which normally a battle between two

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armies is carried on, or a depth of about 20 kilometers starting from the advance line.

"On the other hand, it is possible that the areas exposed to aerial attacks do not belong to combat zones. At this period of air war there no longer exists any sure shelter.

"The fact of using war prisoners for the construction of a camp and for the placing of camps in destroyed spots does not seem to lend itself to any controversy. According to Article 31 of the Convention quoted here above, war prisoners must not be used in works directly related to war activity. The construction of shelters, houses, and camps is not directly a war act. It is recognized that war prisoners may be employed in the construction of roads.

"According to this, by this example, their utilization for the reconstruction of aviation camps that have been destroyed is permissible. On the roads pass trucks, tanks, ammunition cars, and on the aviation fields there are planes. There is no difference, consequently, between them.

"On the other hand, it would be illegal to use war prisoners in loading bombs, munitions, etc., on bombers. Here a work directly related to war activity would be involved.

"By reason of the juridical situation expounded here above, the OKH has rejected the idea of the suggestion of withdrawing French prisoners of war employed in work in the aviation camps."

I draw the attention of the Tribunal to this document. It emphasizes the ill faith of the leaders of National Socialist Germany, which was two-fold.

In the first place, in the quotation that I have read the provisions recognizes that it is illegal, that the loading of bombs is forbidden by the Convention.

In the second place, the note of the OKH contests the dangerous character of the work effectuated on the aviation fields.

Now, the note of the Wilhelmstrasse to which I shall now refer, and which I submit to the Tribunal under Number 48 - this note recognizes, on the contrary, that prisoners submitted to work on an aviation field

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incur grave danger because of the military purpose of this work.

I submit this document to the Tribunal and I shall read the note dated February 14, 1941, Document 48, in

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the French Documentation Book:

"Article 87 of the Convention of 1920, Prisoners of War, provides that in case of difference of opinion on the subject of the interpretation of the Convention, the protecting powers shall offer their services to settle the dispute. To accomplish this, any protecting power may propose a meeting of representatives of the belligerent powers. France assumes, by herself, the responsibilities of protective powers in questions on prisoners of war."

I shall pass on from this quotation to page 2 of the same document:

"As to the point in dispute, it is well to call attention to the following:

"The French conception, according to which prisoners of war may not be quartered near air fields and may not be employed in repairing plane runways, cannot be based on the textual content of Articles 9 and 31; but on the other hand, it is certain that French prisoners of war quartered and employed under these conditions are in a particularly dangerous situation because the air fields in occupied territories are used exclusively for military purposes and thus constitute a special objective for enemy aerial attacks.

"The American Embassy in Berlin has likewise made a protest against a similar use of British prisoners of war in Germany. Thus far no answer has been made to it because a rejection of this protest might result in German prisoners being employed in military work."

The utilization of war prisoners for the construction of trences is substantiated by Document 328-PS, which I file with the Tribunal under number 49 in the French documentation. It is a letter of September 29, 1944, addressed by the Chief of the First Army Corps to the OKW to give an accounting of the work accomplished by 80 Belgian prisoners of war. I quote:

"In conformity with the teletype quoted, by way of reference, it is pointed out that in the territory of Stalag 1-A, Stablack, Einsatzbereich 2-213, Loten, Bei Ragnit, there are 140 Belgian prisoners of war; in Lindbach, Bei Neusiedel, 40 prisoners of war who were also Belgians were employed in fortification labor."

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There remains the task to prove that Allied prisoners forced to work in Reich armament factories were associated with the enemy war effort. To this end I first offer Document 1206-PS. This document is a memorandum dated November 11, 1941. It is a resume of a report made November 7, 1941, to the Aviation Minister by the Reichsmarshal. The document, consequently, establishes the direct responsibility of the Defendant Goering. It regulates, in a general way, the use of Russian war prisoners, but in relation to this work it deals also with prisoners from Western countries.

I submit this document to the Tribunal, number 50 in the French documentation, and I read:

"Berlin, November 11, 1941.

"Notes on outlines laid down by the Reichsmarshal in a meeting of 7 November, 1941, in the Reich Ministry for the Air.

"Subject: Employment of laborers in war industries."

THE PRESIDENT: Has that already been put in by the United States?

M. HERZOG: Yes.

THE PRESIDENT: Then perhaps you could summarize it.

M. HERZOG: I think, Mre. President, that it waspresented by the United States Prosecution. I shall, therefore, simply quote an extract, the fifth and sixth paragraphs of the first page, concerning the employment of French and Belgian war prisoners in individual employment in the economy of armament.

This use of war prisoners in the Reich munitions factories corresponded to a common plan. It has the effect of a systematic policy. The administrative offices for labor have deliberately assigned to armament factories all war prisoners who seem capable of carrying out a specialized work.

I quote, in this connection, Document 3005-PS. It is a directive addressed, in 1941, by the Ministry of Labor to the Directors of Personnel Procurement concerning the respective use of French and Russian prisoners of war. The document has been submitted and commented upon by my colleague, Mr. Dodd, I shall, therefore, not read it. I simply point out that this circular deals with the employment of all French war prisoners in the armament factories of the Reich.

After the capitulation of Italy, Italian soldiers who had fallen into

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the hands of the Germans -- they were not called prisoners of war, but rather, persons under military jurisdiction -- were forced to work.

I offer, in this connection, a directive of the Defendant Bormann, of September 28, 1943, Document 657-PS, which I submit to the Tribunal under number 52.

The Italian military internees were placed in three categories; some ask to continue the struggle beside the German army; others desire to keep a neutral attitude; others have turned in their arms against their former allies. The military internees of the second and third categories must, in the terms of the circular, be forced to work. I read:

"Circular No. 5543, G.R.S. Secret State document concerning the treatment and the recruiting of Italian military internees.

"The OKW, in connection with the general directive for the utilization of labor, has regulated the treatment and the putting to work of Italian military internees. The chief directives of the ordinances of the OKW are the following."

I shall skip the whole rest of the first part.

Page 2 of the French translation:

"The Italian internees, who, at the investigation, do not declare themselves ready to continue the struggle under the German command, are put at the disposal of the General Plenipotentiary for the Utilization of Labor, who has already given the necessary instructions for forced labor to the Chiefs of the Regional Recruiting Offices.

"It is to be noted that Italian military internees must not be utilized together with the British and American prisoners of war."

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The prisoners of war offered passive resistance to the German force. The National Socialist authorites intervened time and again to attempt to increase their output. I refer to document 233-PS, which I file with the Tribunal under No. 53. It is a directive of the OKW of October 17, 1944. The purpose is to point out to the war prisoner bureaus measures susceptible of increasing the productivity of the prisoners. I read from the document.

"Subject: Treatment of War Prisoners--Increase in Production. The measures taken until now concerning the treatment of war prisoners and the increasing of their productivity have not given the results that had been hoped for. The officers of the Party and those of Economy continually complain of the poor productivity of the labor of all the war prisoners. The present circular has as its object to make known the directive arrived at together in combination with the interested services of the Party and the State as concerns the prisoners of war. Instructions in consequence must be given to all the units charged with guards and their annexes. First of all: collaboration with the leaders of the NSDAP. The cooperation of all officers in charge of war prisoners with the chiefs of the Party must become even more close. To this end the commanders of the war-prisoners camps shall immediately detach for all the Kreise of their command and the quality of the liaison officer with the Kreisleiter, an officer acquainted with all questions concerning prisoners of war. This officer shall have as his duty to treat in close collaboration with the Kreisleiter, in conformity with the instructions of the camp commander, all questions concerning prisoners of war. This officer shall have as his duty to treat in close collaboration with the Kreisleiter, in conformity with the instructions of the camp commander, all questions concerning prisoners and capable of bringing these matters to the knowledge of the public. The aim

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of this collaboration is:

"(a) To increase the productivity of the work of war prisoners

"(b) To solve all difficulties quickly and on the spot

"(c) To organize the employment of war prisoners in the Kreise in such a way that they may fulfil the political, military and economic requirements.

"The Chancellery of the Party for its part will give orders to the gauleiters and the kreisleiters.

"Second, treatment of the prisoners of war. The manner in which prisoners of war are to be treated shall be dictated within limits compatible with security by the sole and only pre-occupation of increasing as much as possible the productivity of their labor. In addition to a just treatment and an appropriate diet in conformity with instructions of the feeding and keeping of prisoners of war. The control of productivity is among the proper means of augmenting the latter. Means of repression which are available must be employed with extreme rigor with regard to the lazy and the rebellious." I shall stop my quotation here.

The resistance of war prisoners caused the German Labor Bureaus to use a subterfuge to force them to work. I refer to the operation called the transformation of war prisoners into free workers to whom a labor contract was offered. The operation was perfected by the Defendant Sauckel in the course of one of his trips to Paris on April 9, 1943. For Germany it offered the advantage of permitting the use of transformed prisoners in armament factories without directly violating the Geneva Convention.

For the prisoners it presented only a seeming advantage, the decrease of the surveillance to which they were subject. In reality the length and the nature of the work imposed upon them was in no way changed. Their housing conditions and the quality of their rations remained unchanged. Moreover, this operation

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presented by German propaganda as a measure favorable to war prisoners, brought about a deterioration of their juridical and material status. The prisoners of war were not fooled; in the great majority they refused to cooperate with this German manoeuvre. Some agreed to do it, but a number of these took advantage of the first leave granted them because of their change in status and fled.

The report of the Institute of Market Analysis on Forced Labor, under No. 22, gives in this connection the following information. I quote it, page 70 of the French text, page 70 of the German translation. I shall read the second paragraph.

"The transformation of prisoners into 'free' workers, which was realized or carried out as the second Sauckel act, and which by this fact must be counted in the present list as dating from the 25th of April, 1942, was decided by him, by Sauckel, in the course of a voyage to Paris on April 9, 1943. It was to involve, after the initial signature by the prisoner, his contract as a laborer and as a permit to go to France--a permit continued by the return of the men who had gone, who had received this permit before him.

The 24th of April, 1943, out of 1000 permits forty-three did not return. In the month of August following, out of 8000, 2000 did not return.

A last appeal destined to them was published in the press of August 17 without result. There is no third experiment, and the transformation in practice limited itself to the suppression of sentinels and of camp guards, but changed neither the nature nor the duration of the work, nor the housing conditions, nor the rations.

On the other hand, it entailed privation of rights to receive packages from the International Red Cross and renunciation of diplomatic protection of prisoners of war. The forced utilization of war prisoners did not permit the German authorities to solve the

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labor problem of the war economy. That is why they applied their policy of force upon the civilian populations of the occupied territories. The National Socialist authorities systemized their policy of force from 1942 on by establishing the Bureau of Compulsory Labor in the different occupied territories. From the end of 1941 it has been verified that neither the recruiting of voluntary workers nor the utilization of prisoners permitted a solution of the problem of labor required for the war economy. The Germans then decided to proceed to the forced enrolment of civilian workers. They decreed a veritable civilian mobilization, the execution of which characterizes their criminal activity. I refer to a directive of January 29, 1942, addressed by Dr. Mansfeld under authorization of the Defendant Goering. I remind the Tribunal that I have filed this document already under the number 26. I read from the document which I read this morning, page 2, last paragraph of the French translation.

"However, any suspicion must cease before the necessity of supplementing the deficit in labor caused by the important calls to the armed forces in order to avoid a detriment to the war industry. To this end the forced mobilization of workers in occupied territories must not be neglected. In case the voluntary recruitment is unsuccessful, the mere possibility of mobilization by force will in many cases make recruiting easier. Therefore, I ask you to take immediate measures in your district, any measures which will promote the employment of workers in the German Reich on a voluntary basis. I herewith request you to prepare for publication regulations applying to forced mobilization of labor from your territory for Germany so that they may be decreed at once in case recruiting on a voluntary basis will not have the desired result. This is by way of relieving the man-power shortage in the Reich."

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The appointment of the Defendant Sauckel may be considered as a preparatory measure for the establishment of the Bureau of Compulsory Labor. It was necessary that a central authority be set up in order to co-ordinate the activity of the different labor departments and in order to proceed to the mobilization of civilian workers. The terms of the exposition of the motives of the decree of appointment are explicit. The mission of the plenipotentiary for labor consists in satisfying the labor needs of the German economy through the recruiting of foreign workers and the utilization of war prisoners. The decree of Sauckel's, dated August 22nd, 1942, which I have filed with the Tribunal under No. 17, expresses moreover the will of the Defendant to go about recruiting by means of coercion.

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The institution of the Sevices of Obligatory Labor represents deliberate vidation of international conventions. The deportation of workers is forbidden by several contractual regulations which have the value of positive law. I shall quote,first of all, Article 52 of the Annex to to the Fourth Convention of theHague. I have already given the commentary on it to the Tribunal to demonstrate that the requisitioning of labor effected by the authorities of the opcupation was illegal.

All the more, the institution of obligatory labor was prohibited by Article 52. Obligatory labor was imposed upon foreign workers in the interest of the war economy of Germany. It was carried out in armament factories of National Socialist Germany. It deprived the occupied territories of labor necessary for the rational exploitationof their wealth. It therefore comes out of the framework of legitimate labor requisition, which Article 52 of the Hague Convention regulates.

The prohibition of forced labor is, moreover, affirmed by another international convention. It is a question of the Convention of the 25th of September, 1926 on slavery, of which Germany is a signatory. This treaty assimilates forced labor to slavery in its Article 5. I ask the Tribunal to refer to it.

Forced labor in German war factories was, therefore, instituted in flagrant violation of international law and of all engagements subscribed to by Germany. The National Socialist authorities transgressed positive international law. They likewise violated the rights of people. The latter guarantees individual liberty, to which the principle of forced recruitment is a characteristic attack. The violation of treaties and contemp contempt of the rights of individuals are the norms of National Socialist doc doctrine. That is why the defendants have not only proceeded to the mobilization of foreign workers; they proclaimed the necessity and the legitimacy of forced labor.

I shall, first of all, give to the Tribunal the indication of certain declarations made by the defendants which have the strength of confessions. I shall thereupon indicate how the occupation authorities introduced the service of obligatory work in the different occupied

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territories. I shall demonstrate finally that the Germans took measures of coercion, of violent coercion, to attempt to assure the execution of civilian mobilization which had been decreed.

The proof of this can be found in the report of the Four Year Plan on the 10,11, and 12 of August, 1942, Document R-124, No 30 of our documentation. I shall not read it. This has already been read to the Tribunal. I recall that the document to which I refer indicates that the Fuerhrer was in agreement to effect all the necessary constraint in the East as well as in the West, if the question of recruiting foreign laborers could not be regulated on a voluntary basis.

The necessity of the utilization of obligatory labor was expressed in identical terms by certain of the defendants. I shall not stress the numerous statements of the accused Saukel to which I have already drawn the attention of the Tribunal. The exposition of the motives of his decree of August 22, 1942, the policy included in his letter of April 24, 1942, and the policy specified in his speech at Posen in Febuary, 1942 transalate faithfully the determination of the defendant

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to justify the principle of forced recruiting. I shall not revert to this.

I wish to present to the Tribunal the declaration of the defendant Jodl. This extract is drawn from a long speech uttered by Jodl November 7, 1943 at Munich before an audience of Gauleiters. This speech forms document L-172. I offer it in evidence to the Tribunal under Number 54. I shall read page two of the French translation, second paragraph; page 38-39 of the German original:

"This dilemma of manpower shortage has led to the idea of making more thorough use of the manpower reserves in the territories occupied by us. Here right thinking and wrong thinking are mixed up together. I believe that, insofar as concerns labor, everything has been done that could be done, but where this has not yet been achieved, it appears preferable from the political point of view not to have recourse to measures of compulsion. It is better to exchange for these order and economic aid. In my opinion, however, the time has now come to take steps with remorseless vigor and resolution in Denmark, Holland, France and Belgium, and also to compel thousands of wasters to carry out the fortification work, which is more important than any other work. The necessary orders for this have already been given.

The German Labor Service had not waited for the appeal of General Jodl to decree the mobilization of civilian foreign workers. I am going to show the Tribunal how the Bureau of Compulsory Labor was established and organized in France, in Norway, in Belgium, and in Holland.

I should like to remind the Tribunal that in Denmark there was never any legal regulation for forced labor, and that forced labor was carried out as a simple de facto measure.

I also wish to remind the Tribunal that the Bureau of Forced Labor was introduced in a special form in Luxembourg, and in the French departments of Alsace and Lorraine. The occupation authorities incorporated the citi zens of Luxembourg and the French citizens in the departments of Bas-Rhin, Haut-Rhin, Moselle in the Labor Service of the Reich. This incorporation was carried out by ordinances of Gauleiter Simon and Gauleiter Wagner. The ordinances constitute an integral part of the Germanization plan for territories of Luxembourg, Alsace and Lorraine.

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Their consequences surpass those of the measures of forced enrollment which were taken in other occupied territories. That is why I refer this Tribunal for this point to the explanation which will be given in the prosecution brief of M. Edgar Faure.

Two German regulations of a general nature serve as a foundation for the legislation on forced labor in the occupied territories of Western Europe.

The first is the decree of Sauckel of August 22, 1942, to which I have drawn the attention of the Tribunal on several occasions. This decree prescribes the mobilization of all civilian workers in the service of the war economy. Article 2 prescribes that this decree is applicable to occupied territories. This decree of August 22 thus constitutes the legal charter of the civilian mobilization of foreign workers. This mobilization was confirmed by an order of the Fuehrer of September 8, 1942. It is document 556-PS-2, which I file with the Tribunal and from which I shall read:

"The Fuehrer and Supreme Commander of the Wehrmacht. General Headquarters of the Fuehrer, September 8, 1942.

"The extensive coastal fortification which I have ordered to be erected in the area of Army Group West make it necessary that in the occupied territory all available workers should be committed to give the fullest extent of their productive capacity. The previous allotment of domestic workers is insufficient. The work is definitely insufficient. In order to increase it, I order the introduction of compulsory labor and the prohibition of changing the place of employment without permission of the authorities in the occupied territories.

"Furthermore, in the future the distribution of food and clothing ration cards to those subject to labor draft shall depend on the possession of a certificate of employment. Refusal to accept an assigned job, as well as abandoning the place of work without the consent of the authorities in charge will result in the withdrawal of the food and clothing ration cards.

"The GBA, that is, the Deputy General for Sauckel, in agreement with the military commander as well as the Reichscommissar will issue the

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corresponding decrees for execution."

The forced enrollment of foreign workers was preceded by preliminary measures to which the order of August 8, 1942, refers. I am speaking of the freezing of labor.

To carry out the mobilization of workers it was necessary that the public services exercise strict control over their use in the industrial enterprises of occupied territories. This control had a double purpose. It was to facilitate the census of workers suitable for work in Germany; it was to prevent workers from avoiding the German requisition by alleging a real or fictitious employment.

The National Socialist authorities exercised this control by restraining the liberty of hiring and of discharging which they submitted to the authorities of the Labor Bureaux.

In France the freezing of labor was brought about by the law of September 4, 1942. I shall shortly relate to the Tribunal the conditions under which this law was formulated. I shall for the moment simply supply it to the Tribunal under No.56, and ask the Tribunal to take judicial notice of it.

In Belgium the freezing of labor was carried out by the ordinance of the command of the 6th of October, 1942. I submit to the Tribunal Document No.57, of which I ask the Tribunal to take judicial notice.

Finally, in Holland where the Bureau of Compulsory Labor was established early in 1941, an ordinance of the Reichskommissar dated February 8, 1941, -- which I offer to the Tribunal under No.58 -- organized the freezing of labor.

The immobilization of labor was brought about under an economic pretext in all countries. In reality it constituted a preliminary measure for the mobilization of workers which the National Socialist authorities immediately proceeded to carry out.

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In France the Bureau of Compulsory Labor was established by the legislation of the pseudo-government of Vichy, but this legislation was imposed upon the French authorities by the defendants, and especially by the defendant Sauckel. The action which Sauckel brought against the government of Vichy to force it to favor the deportation of workers into Germany was exercised in four periods. I shall briefly review for the Tribunal the history of these four Sauckel actions.

The first Sauckel action was initiated in the spring of 1942, soon after the appointment of the defendant as Plenipotentiary for labor. The German armament industry had an urgent need of workers. The service of the Arbeitseinsatz had decided to recruit 150,000 specialists in France. Sauckel came to Paris in the month of June 1942. He had several conversations with French ministers. Otto Abetz, German ambassador in Paris, presided over these meetings. They brought about the following results: faced with the repugnance of French authorities to establish forced labor, it was decided that the recruiting of the 150,000 specialists would be carried out by a pseudo-voluntary enrollment. This wasthe beginning of the so-called exchange operation to which I have already drawn the attention of the Tribunal.

But the Tribunal knows that the exchange operation was a failure, and that despite an intensification of German propaganda, the number of voluntary enrollments remained at a minimum. The German authorities then put the Vichy Government in a position to proceed to forced enrollment.

I offer in evidence the threatening letter of August 26, 1942, addressed by the German Dr. Michel, Chief of the Administrative Section of the Gernal Staff, to the General Delegate for Franco-German economic relations. This is French Document 530, which I shall submit to the Tribunal as 45, French Exhibit 59:

"The President promised Gauleiter Sauckel, Secretary General in charge of the Department of Labor, to make every effort to send to Germany by way of reinforcing the German war economy, the German armament economy, 350,000 workers of whom 150,000 should be metal workers. The French Government proposed originally to solve this problem by recruitment,

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in particular by special offers. This method has been abandoned and that of voluntary enrollment has been attempted with a view to the liberation of prisoners. The months which have passed have demonstrated that the end in viewcannot be achieved by means of voluntary recruiting. In France, German armament orders have increased in volume and assumed a more marked and urgent character. Besides, the accomplishment of special tasks has been asked, which can be successfully carried out only by having recourse to a very considerable number of workers. In order to assure the realization of the tasks for which France is responsible in the domain of labor supply, the French Government must be asked henceforth to put into execution the following measures: First of all, the publication of a decree relative to the change of place of work. By virtue of this decree, the place of work cannot be abandoned and labor cannot be hired without the approval of certain specified services. Second, the institution of the obligatory dedaration of all persons out of work, as well as those who do not work during the whole working day or in a permanent manner. This obligatory statement will make it possible to determine as fully as possible the reserves that are still available. Third, the publication of a decree for the mobilization of workers for important tasks relating tothe policy of State. This decree is to furnish (a) the necessary labor for Germany; (b) the workers necessary in France for the carrying out of orders which have been transferred here for special tasks. Fourth, publication of a decree safeguarding the formation of young specialists. This decree must impose upon French enterprise, French factories and industry the obligation of forming by means of apprenticeship and systematic professional education, young workers possessing adequate special qualifications for the military commander. Signed: Dr. Michel."

Dr. Michel's letter forms the basis for the law relative to the utilization and the orientation of labor. It is the law of September 4, 1942, which I have just filed with the Tribunal.

In application of the law of September 4, all Frenchmen between 18

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and 50 who did not have employment susceptible of occupying them more than 30 hours a week were forced to state this at the city hall where they resided. A decree of September 19, 1942, and an enabling directive of September 22 provided regulations for the different phases of the statement.

Sauckel's first action was achieved on a legislative plane. The defendant only had to dip into the labor resources which were established by it. But the resistance of the French workers caused his recruiting plan to fail. This is why Sauckel undertook his section action beginning in January, 1943.

The second Sauckel action is marked by the setting up of the Bureau of Compulsory Labor, properly speaking. Until then, workers had been the only victims of the policy of force of the defendants. The latter understood the demagogic argument which they could derive from this de facto situation. They explained that it was inadmissible that the working classes of the occupied territory be the only ones to participate in the German war effort. They required that the basis of forced labor be enlarged by the establishment of the Bureau of Compulsory Labor.

This was established by two measures. A directive of February 2, 1943, prescribed a general census of all French of masculine sex born between the 1st of January 1912 and the 1st of January 1921. The census took place between the 15th and 23rd of February. It had just entered in force when the law and decree of February 16, 1943 appeared. These regulations established the Bureau of Compulsory Labor for all young men born between the 1st of January 1920 and 31st of December 1922. I file it with the Tribunal under French No's 60 and 61, and I ask the Court to take judicial notice of it.

The action carried out by the Defendant to impose this legislation, which was not in the domain of common law, is substantiated by numerous documents. I particularly draw the attention of the Tribunal to four of these which permit us to retrace the activities of the Defendant Sauckel during the mohths of January and February 1943.

On January 5, 1943, Sauckel transmitted to the different departments

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of his administration an order of the Fuehrer which the Defendant Speer had communicated to him. This is Document 556-PS-13, which I file with the Tribunal under No. 62. I shall read its first paragraph. First of all:

"1. On January 4, 1943, at 8:00 o'clock in the evening -

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THE PRESIDENT: What number?

M. HERZOG: 62, Mr. President.

THE PRESIDENT: Thank you.

M. HERZOG: "January 4, 1943, at 8:00 o'clock in the evening, Minister Speer telephones from the General Headquarters of the Fuehrer to give the information that according to a decision of the Fuehrer it is no longer necessary in the future, when the taking on of specialists and auxiliaries in France is to be made, to have any particular regard for the French when they likewise in the said country exercise pressure and use more severe measures to the end of procuring the necessary labor."

On January 11, 1943, the Defendant Sauckel was in Paris. He attended a meeting which brought together at the Military Commander's all responsible officials of the Labor Bureau. He announced that new measures of constraint were to be taken in France. I refer you to the transcript of the meeting which constitutes Document 1342-PS, which I file with the Tribunal under No. 63. I shall read from page 2 of the French translation, page 1, fourth line of the second paragraph of the German original:

"Gauleiter Sauckel thanks everybody for the successful carrying out of the first project. Already now, from the beginning of the new year, he considers himself obliged to announce new severe measures, a great need of labor making itself felt for France as well as for the Reich armament industry."

I skip to the end of the paragraph. I shall read from the next paragraph:

"The situation on the front calls for 700,000 soldiers fit for frontline service. For this purpose, the armament industry would have to drop to 200,000 key workers by the end of March. I have received an order from the Fuehrer to find new workers in replace these very fine skilled workers for unskilled. I shall need for this 150,000 French specialists, while the other 50,000 can be drawn from Holland, Belgium, and other occupied countries. In addition, 100,000 unskilled French workers are necessary for the Reich. By the second action of recruitment in France it would be necessary that by the middle of March 150,000 skilled workers and 100,000 unskilled workers and women be transferred to Germany."

The Defendant Sauckel went back to Germany a few days later. On February

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16 he was in Berlin at the meeting of the Central Office of the Four Year Plan. He gave a commentary of the law which was to appear that very day, in France, and revealed that he was the instigator of it.

I refer once more to the minutes of the conference of the Four Year Plan, included under No. R-124, which I submitted this morning to the Tribunal under No. 30. I shall read an extract from this document which my American colleagues have not read. It is page 7 of the French translation of the document, page 2,284-5 of the German original:

"This is the situation in France. After my collaborators and myself have succeeded, after difficult discussions, in convincing Laval to establish the service of compulsory labor, this obligation to labor has been extended, thanks to our pressure, so successfully that since yesterday -- even yesterday -- three French classes have been called. This is why we are now legally qualified to recruit in France, with the assistance of the French Government, workers of the three classes whom we shall be able to employ henceforth in French factories, but among whom we shall be able to choose some for our own needs in Germany and send them to Germany."

In fact, the Defendant Sauckel returned to France on February 24. I offer in evidence to the Tribunal the letter which he addressed to Hitler before his departure to inform him of his trip. It proves the continuity of the action of Sauckel. The letter constitutes Document 556-PS-25, which I lodge with the Tribunal under No. 64, and I shall read it:

"Director General of the Labor Service to the Fuehrer. General Headquarters of the Fuehrer.

"My Fuehrer:

"I allow myself herewith to take leave of you before undertaking my voyage of service which has been already arranged for France.

The objective of my travel is, first of all, to put at the disposal of the Reich, as soon as possible, workers capable of replacing German workers to the benefit of the Wehrmacht. May I add that the Marshal Keitel and General von Unruh have received a communication from me to the effect that half of these workers intended to replace German workers in the key industries, that is, 125 French qualified specialists, had arrived already in the Reich on January 1, 1943, that a corresponding mobilization for the benefit of the Wehrmacht

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might take place. I shall now assure myself in France that the second half shall arrive in the Reich by the end of March, or earlier if possible. The first French program was executed by the end of December.

"The second object of my visit is to assure the necessary labor for the French workshops in order to permit the carrying out of the programs provided for France, of Grand Admiral Doenitz and Gauleiter Kauffmann.

"Third, to assure the labor necessary for the other German armament programs which are in process in France.

"Fifth, to prepare supplementary labor in agreement with Secretary of State Backe, in view of intensifying French agricultural production.

"Sixth, to have the much needed conversations with the French Government on the subject of labor service, the call of classes, and so forth, in view of activating the recruitment of labor for the benefit of the German war economy."

THE PRESIDENT: I think that is a good time to break off.

(Whereupon at 1700 hours the hearing of the Tribunal adjourned to reconvene at 1000 hours, January 19, 1946.)